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ABSTRACT

This document presents the State of Michigan's administrative rules for special education including 1996 and 1997 revisions. The specific regulations are organized into 9 sections: (1) general provisions (definitions and determination standards); (2) evaluation, eligibility, student assignment, and due process procedures (e.g., individualized educational planning committee participants and responsibilities); (3) administration of programs and services (e.g., designation of residency, paraprofessional personnel, and specific program rules); (4) qualifications of directors and supervisors; (5) qualifications of teachers and other personnel (e.g., specific teacher specialization qualifications and support personnel qualifications); (6) financing (e.g., source and use of funds, reimbursement of special education transportation, distribution of special education millage); (7) development and submission of intermediate school districts' plan (e.g., required content areas, joint plans, objections to plans); (8) complaints (e.g., responsibilities of agencies at all levels); and (9) records and confidentiality (e.g., access rights, hearing procedures, confidentiality safeguards). (DB)

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ED 425 603

Revised Administrative Rules for Special Education

(Including revisions effective October 15, 1996, and April 9, 1997)

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DEPARTMENT OF EDUCATION

STATE BOARD OF EDUCATION

SPECIAL EDUCATION PROGRAMS AND SERVICES

Filed with the Secretary of State on March 25, 1997.
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the state board of education by sections 1701 and 1703 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1701 and 380.1703 of the Michigan Compiled Laws)

R 340.1701, R 340.1722d, R 340.1851, R 340.1852, and R 340.1853 of the Michigan Administrative Code, appearing on page 269 of the 1980 Annual Supplement to the 1979 Michigan Administrative Code, pages 464 to 467 of the 1987 Annual Supplement to the Code, and pages 711 to 713 of the 1994 Annual Supplement to the Code, are amended to read as hereinafter set forth.

R 340.1854 of the Michigan Administrative Code, appearing on pages 297 and 298 of the 1980 Annual Supplement to the 1979 Michigan Administrative Code, is rescinded.

PART 1.
GENERAL PROVISIONS

R 340.1701 Definitions; A to E.

Rule 1. As used in these rules:

(a) "Adaptive behavior" means an individual's ability to perform the social roles appropriate for a person of his or her age and gender in a manner that meets the expectations of home, culture, school, neighborhood, and other relevant groups in which he or she participates.

(b) "Agency" means a public or private entity or organization, including the local education agency, intermediate school district, the department, and any other political subdivision of the state that is responsible for providing education or services to persons who are disabled.

(c) "Ancillary and other related services" means services that are specially designed to meet the unique needs of persons with disabilities to age 25, including all of the following:

(i) Audiological, medical, psychiatric, psychological, speech and language, or educational evaluation.

(ii) Occupational, physical, recreational, music, art, or other therapy.

(iii) Counseling services, including rehabilitation counseling, parent counseling and training, school health services, or recreation as defined in the individuals with disabilities education act of 1990, 20 U.S.C. §1400 et seq., and the regulations implementing the act, 34 C.F.R. §300.16 (1992).

(iv) Mobility and orientation services, and special education services provided by other nonteaching personnel.

(v) Transportation.

(vi) School psychological and school social work services.

(vii) Instruction provided to students with disabilities who are homebound, hospitalized, or placed in juvenile detention facilities.

(viii) Services to preprimary age children with disabilities, which include, where appropriate, evaluation, therapy, consultation with parents, and training activities.

(d) "Annual goals" means a set of general statements that represents expected achievement over a year's time for persons who are disabled who are enrolled in special education programs and services.

(e) "Approved program" means a program which is described in the intermediate school district plan and which is being operated in compliance with state and federal rules and regulations governing the provision of special education to eligible persons who are disabled.

(f) "Change in educational status" means a placement of a person who is disabled in regular education, special education programs and services, or from one type of special education program or service to another or termination of special education programs or services by placement, graduation, or expulsion. Any change in grade levels within an educational program level, such as preprimary, elementary, junior high, or senior high, shall not constitute a change in educational status, but a change from one educational program level to another constitutes a change in educational status.

(g) "Complaint" means a specific written and signed allegation, which includes the facts on which the allegation is based, by an individual or an organization that there is an uncorrected violation of any of the following:

(i) Any current provision of these rules.

(ii) Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws, as it pertains to special education programs and services.

(iii) The individuals with disabilities education act of 1990, 20 U.S.C. §1400 et seq., and the regulations implementing the act, 34 C.F.R. parts 300 and 301 (1992).

(iv) The state board of education's special education plan or an intermediate school district special education plan.

(v) An individualized educational planning committee report, hearing officer decision, or court decision regarding special education programs or services.

(h) "Comprehensive evaluation" means an evaluation that is conducted for the purpose of determining eligibility for special education and related services and for determining the current level of educational performance. The multidisciplinary evaluation team, members of the team, the individualized educational planning committee, or a hearing officer shall determine the comprehensiveness of an evaluation based on individual needs.

(i) "Consent" means an agreement, in writing, that states all of the following:

(i) The parent has been fully informed, in his or her native language or through another mode of communication, of all information that is relevant to the activity for which consent is sought.

(ii) The parent understands and agrees to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom.

(iii) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

(j) "Department" means the state department of education.

(k) "Departmentalize" means a secondary level delivery system in which 2 or more teachers teach groups of special education students by instructional content areas.

(l) "Destruction of records" means either the physical destruction of information or the removal of personal identifiers from information so that the information is not personally identifiable.

(m) "Education records" means those records which are directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution. The term does not include any of the following:

(i) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker of the records and which are not accessible or revealed to any other individual except a substitute. For the purpose of this definition, a "substitute" means an individual who performs, on a temporary basis, the duties of the individual who made the record, and does not refer to an individual who permanently succeeds the maker of the record in his or her position.

(ii) Records of a law enforcement unit of an educational agency or institution that are in compliance with all of the following conditions:

(A) The records are maintained apart from the records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution.

(B) The records are maintained solely for law enforcement purposes.

(C) The records are not disclosed to individuals other than law enforcement officials of the same jurisdiction and education records that are maintained by the educational agency or institution are not disclosed to the personnel of the law enforcement unit.

(iii) Records which relate to an individual who is employed by an educational agency or institution and which are in compliance with all of the following conditions:

(A) The records are made and maintained in the normal course of business.

(B) The records relate exclusively to the individual in that individual's capacity as an employee.

(C) The records are not available for use for any other purpose. This paragraph does not apply to records

relating to an individual who is in attendance at the agency or institution and who is employed as a result of his or her status as a student.

(iv) Records which relate to an eligible student and which are in compliance with all of the following conditions:

(A) The records are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity or assisting in that capacity.

(B) The records are created, maintained, or used only in connection with the provision of treatment to the student.

(C) The records are not disclosed to anyone other than the individuals who provide the treatment. However, the records may be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the educational agency or institution.

(v) Records of an educational agency or institution that contain only information that relates to a person after that person was no longer a student at the educational agency or institution. An example would be information that is collected by an educational agency or institution pertaining to the accomplishments of its alumni.

R 340.1701a Definitions; I to P.

Rule 1a. As used in these rules:

(a) "Independent educational evaluation" means an evaluation conducted by a qualified examiner or examiners who are not employed by the public agency responsible for the education of the student. A contracted agent for the purpose of conducting an independent evaluation is not considered an employee of the public agency.

(b) "Individualized educational planning committee" means persons appointed and invited by the superintendent to determine a person's eligibility for special education programs and services and, if eligible, to develop an individualized education program.

(c) "Individualized education program" means a program developed by an individualized educational planning committee which shall be reviewed annually. The components of the program are identified in R 340.1721e(3).

(d) "Instructional services" means services provided by teaching personnel which are specially designed to meet the unique needs of a handicapped person up to age 25. These may be provided by any of the following:

(i) A preprimary teacher pursuant to R 340.1755.

(ii) A teacher consultant pursuant to R 340.1749.

(iii) A teacher of the speech and language impaired pursuant to R 340.1745.

(iv) A teacher providing instruction to handicapped students who are homebound or hospitalized pursuant to R 340.1746.

(v) A teacher providing instruction to students who are placed in juvenile detention facilities pursuant to R 340.1757.

(e) "Multidisciplinary evaluation team" means a minimum of 2 persons who are responsible for evaluating students suspected of being handicapped or handicapped persons being reevaluated pursuant to R 340.1722d. The team shall include at least 1 special education-approved teacher or other specialist with knowledge in the area of the suspected disability.

(f) "Native language," when referring to a person of limited English speaking ability, means the language or mode of communication normally used by that person.

(g) "Normal course of study" means a regular education curriculum leading to a high school diploma, or a special education curriculum approved in the intermediate plan leading to a high school diploma. A special education curriculum shall include physical education, personal adjustment, and prevocational and vocational education.

(h) "Occupational therapy" means therapy provided by a therapist who has been registered by the American occupational therapy association or an occupational therapy assistant who has been certified by the American occupational therapy association and who provides therapy under the supervision of a registered occupational therapist.

(i) "Parent" means the mother, father, or legally designated guardian of the handicapped person. "Parent" also means the affected handicapped person when the person reaches 18 years of age, if a legal guardian has not been appointed by appropriate court proceedings.

(j) "Parent advisory committee" means a committee of parents of handicapped persons of a particular intermediate school district appointed by the board of that district pursuant to R 340.1838.

(k) "Personal adjustment education" means instruction designed to assist the handicapped person to develop personal and social skills needed for adult independent living, including all of the following:

(i) Activities of daily living.

(ii) Homemaking.

(iii) Mobility.

(iv) Personal health and appearance.

(v) Recreation.

(vi) Use of prosthetic devices and sensory aids.

(l) "Personally identifiable" means that information which includes any of the following data:

(i) The legal name of the person, the person's parent, or other family member.

(ii) The address of the person.

(iii) A personal identifier, such as the person's social security number or student number.

(iv) A list of personal characteristics or other information which makes it possible to identify the person with reasonable certainty.

(m) "Physical therapy" means therapy prescribed by a physician and provided by a therapist who is licensed by the state of Michigan pursuant to Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws or a physical therapy assistant who provides therapy under the supervision of a licensed physical therapist.

(n) "Physical education" means the development of physical and motor fitness, fundamental motor skills and patterns, and skills in aquatics, dance, and individual and group games and sports, both intramural and lifetime. The term includes all of the following:

(i) Special physical education.

(ii) Adaptive physical education.

(iii) Movement education.

(iv) Motor development.

(o) "Prevocational education" means instruction needed as a prerequisite to vocational education, such as any of the following:

(i) Reading.

(ii) Writing.

(iii) Mathematics.

(iv) Knowledge of commonly used tools, utensils, and processes.

(v) Familiarity with the broad range of occupations for which special skills are required.

(vi) Common employment procedures and requirements.

(vii) Knowledge of the nature and extent of vocational limitations caused by a handicap.

(p) "Psychologist" means an approved Michigan school psychologist or a Michigan fully licensed psychologist.

(q) "Public expense" means that the public agency either pays for the full cost of the evaluation, program, or services, including transportation and room or board, or else insures that such is provided at no cost to the parent.

R 340.1701b Definitions; R to Y.

Rule 1b. As used in these rules:

(a) "Regular education" means education other than special education programs and services.

(b) "School social worker" means a social worker approved by the department pursuant to R 340.1012.

(c) "Services" means instructional services or ancillary and other related services as defined in these rules.

(d) "Short-term instructional objectives" means objectives written in measurable terms which relate to the annual goals and which represent expected achievement over several weeks or months, but not more than 1 year.

(e) "Special education" means specially designed instruction, at no cost to the parents, to meet the unique educational needs of the special education student and to develop the maximum potential of the special education student. All of the following are included in the definition of special education:

(i) Classroom instruction.

(ii) Instruction in physical education.

(iii) Instructional services defined in R 340.1701a(d).

(iv) Ancillary and other related services where specially designed instruction is provided and as identified in R 340.1701(c)(ii),(iii),(v), (vi), and (vii).

(f) "Special education advisory committee" means a committee appointed by the state board of education to advise the state board of education on matters related to the delivery of special education programs and services.

(g) "Special education classroom" means a classroom that is under the direction of an approved special education teacher and in which a person receives specially designed instruction.

(h) "Specialized transportation" means transportation provided in an approved school vehicle in a regular seat, wheelchair, or an approved baby seat. This specifically excludes students who need ambulance service, a medical attendant, or other care outside the responsibility of the schools.

(i) "Superintendent" means the chief executive officer of the public agency or his or her designee.

(j) "Transition services" means a coordinated set of activities for a student which is designed within an outcome-oriented process and which promotes movement from school to post-school activities, including postsecondary education; vocational training; integrated employment, including supported employment; continuing and adult education; adult services; independent living; or community participation. The coordinated set of activities shall be based on the individual student's needs, shall take into account the student's preferences and interests, and shall include needed activities in all of the following areas:

(i) Instruction.

(ii) Community experiences.

(iii) Development of employment and other post-school adult living objectives.

(iv) If appropriate, acquisition of daily living skills and functional vocational evaluation.

(k) "Vocational education" means vocational education as defined in section 7 of Act No. 451 of the Public Acts of 1976, as amended, being §380.7 of the Michigan Compiled Laws.

(l) "Vocational evaluation" means an evaluation conducted before vocational education, which shall include, at a minimum, an assessment of the student's personal adjustment skills, aptitudes, interests, and achievements and special information regarding the student's disabling condition.

(m) "Work activity center" means a program designed exclusively to provide therapeutic activities for persons who are disabled whose disabilities are so severe that their productive capacity is inconsequential. A work activity center may be operated in conjunction with a sheltered workshop licensed under the fair labor standards act of 1938, as amended, 29 U.S.C. §201 et seq.

(n) "Youth placed in a juvenile detention facility" means an individual who is placed by the court in a detention facility for juvenile delinquents and who is not attending a regular school program due to court order.

R 340.1702 "Handicapped person" defined.

Rule 2. "Handicapped person" means a person who is under 26 years of age and who is determined by an individualized educational planning committee or a hearing officer to have a characteristic or set of characteristics pursuant to R 340.1703 to R 340.1715 that necessitates special education or ancillary and other related services, or both. Determination of an impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1703 Determination of severely mentally impaired.

Rule 3.(1) The severely mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:

(a) Development at a rate approximately 4 1/2 or more standard deviations below the mean as determined through intellectual assessment.

(b) Lack of development primarily in the cognitive domain.

(c) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1704 Determination of trainable mentally impaired.

Rule 4.(1) The trainable mentally impaired shall be determined through manifestation of all of the following behavioral characteristics:

(a) Development at a rate approximately 3 to 4 1/2 standard deviations below the mean as determined through intellectual assessment.

(b) Lack of development primarily in the cognitive domain.

(c) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1705 Determination of educable mentally impaired.

Rule 5.(1) The educable mentally impaired shall be determined through the manifestation of all of the following behavioral characteristics:

(a) Development at a rate approximately 2 to 3 standard deviations below the mean as determined through intellectual assessment.

(b) Scores approximately within the lowest 6 percentiles on a standardized test in reading and arithmetic. This requirement shall not apply if the child is not age or grade appropriate for formal or standardized testing.

(c) Lack of development primarily in the cognitive domain.

(d) Impairment of adaptive behavior.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a psychologist.

(3) A determination of impairment shall not be based solely on behaviors that relate to environmental, cultural, or economic differences.

R 340.1706 Determination of emotionally impaired.

Rule 6.(1) The emotionally impaired shall be determined through manifestation of behavioral problems primarily in the affective domain, over an extended period of time, which adversely affect the person's education to the extent that the person cannot profit from regular learning experiences without special education support. The problems result in behaviors manifested by 1 or more of the following characteristics:

(a) Inability to build or maintain satisfactory interpersonal relationships within the school environment.

(b) Inappropriate types of behavior or feelings under normal circumstances.

(c) General pervasive mood of unhappiness or depression.

(d) Tendency to develop physical symptoms or fears associated with personal or school problems.

(2) The term "emotionally impaired" also includes persons who, in addition to the above characteristics, exhibit maladaptive behaviors related to schizophrenia or similar disorders. The term "emotionally impaired" does not include persons who are socially maladjusted, unless it is determined that such persons are emotionally impaired.

(3) The emotionally impaired shall not include persons whose behaviors are primarily the result of intellectual, sensory, or health factors.

(4) A determination of impairment shall be based on data provided by a multidisciplinary team, which shall include a comprehensive evaluation by both of the following:

(a) A psychologist or psychiatrist.

(b) A school social worker.

(5) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1707 Determination of hearing impaired.

Rule 7.(1) The term "hearing impaired" is a generic term which includes both deaf persons and those who are hard of hearing and which refers to students with any type or degree of hearing loss that interferes with development or adversely affects educational performance in a regular classroom setting. The term "deaf" refers to those hearing

impaired students whose hearing loss is so severe that the auditory channel is not the primary means of developing speech and language skills. The term "hard of hearing" refers to those hearing impaired students with permanent or fluctuating hearing loss which is less severe than the hearing loss of deaf persons and which generally permits the use of the auditory channel as the primary means of developing speech and language skills.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include an audiologist and an otolaryngologist or otologist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1708 Determination of visually impaired.

Rule 8.(1) The visually impaired shall be determined through the manifestation of both of the following:

(a) A visual impairment which interferes with development or which adversely affects educational performance.

(b) One or more of the following:

(i) A central visual acuity for near or far point vision of 20/70 or less in the better eye after routine refractive correction.

(ii) A peripheral field of vision restricted to not more than 20 degrees.

(iii) A diagnosed progressively deteriorating eye condition.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include an ophthalmologist or optometrist.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1709 Determination of physically and otherwise health impaired.

Rule 9.(1) The physically and otherwise health impaired shall be determined through the manifestation of a physical or other health impairment which adversely affects educational performance and which may require physical adaptations within the school environment.

(2) Determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include 1 of the following:

(a) An orthopedic surgeon.

(b) An internist.

(c) A neurologist.

(d) A pediatrician.

(e) Any other approved physician as defined in Act No. 368 of the Public Acts of 1978, as amended, being §333.1101 et seq. of the Michigan Compiled Laws.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1710 Determination of speech and language impaired.

Rule 10.(1) The speech and language impaired shall be determined through the manifestation of 1 or more of the following communication impairments that adversely affects educational performance.

(a) Articulation impairment, including omissions, substitutions, or distortions of sound, persisting beyond the age at which maturation alone might be expected to correct the deviation.

(b) Voice impairment, including inappropriate pitch, loudness, or voice quality.

(c) Fluency impairment, including an abnormal rate of speaking, speech interruptions, and repetition of sounds, words, phrases, or sentences, that interferes with effective communication.

(d) One or more of the following language impairments as evidenced by a spontaneous language sample that demonstrates inadequate language functioning and test results, on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning that indicate inappropriate language functioning for the child's age:

(i) phonological.

(ii) morphological.

(iii) syntactic.

(iv) semantic.

(v) pragmatic use of aural/oral language.

(2) Any student who is eligible for special education programs and services and who requires speech and language services shall be eligible for speech and language services pursuant to the provision of R 340.1745(a)

(3) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary team which shall include a teacher of the speech and language impaired.

(4) A determination of impairment shall not be based solely on behaviors that relate to environmental, cultural, or economic differences.

R 340.1711 "Preprimary impaired" defined; determination.

Rule 11.(1) "Preprimary impaired" means a child through 5 years of age whose primary impairment cannot be differentiated through existing criteria within R 340.1703 to R 340.1710 or R 340.1713 to R 340.1715 and who manifests an impairment in 1 or more areas of development equal to or greater than 1/2 of the expected development for chronological age, as measured by more than 1 developmental scale which cannot be resolved by medical or nutritional intervention. This definition shall not preclude identification of a child through existing criteria within R 340.1703 to R 340.1710 or R 340.1713 to R 340.1715.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1713 "Specific learning disability" defined; determination.

Rule 13.(1) "Specific learning disability" means a disorder in 1 or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. The term includes such conditions as perceptual handicaps, brain injury, minimal brain disfunction, dyslexia, and developmental aphasia. The term does not include children who have learning problems which are primarily the result of visual, hearing, or motor handicaps, of mental retardation, of emotional disturbance, of autism, or of environmental, cultural, or economic disadvantage.

(2) The individualized educational planning committee may determine that a child has a specific learning disability

if the child does not achieve commensurate with his or her age and ability levels in 1 or more of the areas listed in this subrule, when provided with learning experiences appropriate for the child's age and ability levels, and if the multidisciplinary evaluation team finds that a child has a severe discrepancy between achievement and intellectual ability in 1 or more of the following areas:

(a) Oral expression.

(b) Listening comprehension.

(c) Written expression.

(d) Basic reading skill.

(e) Reading comprehension.

(f) Mathematics calculation.

(g) Mathematics reasoning.

(3) The individualized educational planning committee shall not identify a child as having a specific learning disability if the severe discrepancy between ability and achievement is primarily the result of any of the following:

(a) A visual, hearing, or motor handicap.

(b) Mental retardation.

(c) Emotional disturbance.

(d) Autism.

(e) Environmental, cultural, or economic disadvantage.

(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include at least both of the following:

(a) The child's regular teacher or, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a child of his or her age or, for a child of less than school age, an individual qualified by the state educational agency to teach a child of his or her age.

(b) At least 1 person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, a teacher of speech and language impaired, or a teacher consultant.

R 340.1714 Determination of severely multiply impaired.

Rule 14.(1) Students with severe multiple impairments shall be determined through the manifestation of either of the following:

(a) Development at a rate of 2 to 3 standard deviations below the mean and 2 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(b) Development at a rate of 3 or more standard deviations below the mean or students for whom evaluation instruments do not provide a valid measure of cognitive ability and 1 or more of the following conditions:

(i) A hearing impairment so severe that the auditory channel is not the primary means of developing speech and language skills.

(ii) A visual impairment so severe that the visual channel is not sufficient to guide independent mobility.

(iii) A physical impairment so severe that activities of daily living cannot be achieved without assistance.

(iv) A health impairment so severe that the student is medically at risk.

(2) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team, which shall include a psychologist and, depending upon the handicaps in the physical domain, the multidisciplinary evaluation team participants required in R 340.1707, R 340.1708, or R 340.1709.

(3) A determination of impairment shall not be based solely on behaviors relating to environmental, cultural, or economic differences.

R 340.1715 "Autism" defined; determination.

Rule 15.(1) "Autism" means a lifelong developmental disability which is typically manifested before 30 months of age. "Autism" is characterized by disturbances in the rates and sequences of cognitive, affective, psychomotor, language, and speech development.

(2) The manifestation of the characteristics specified in subrule (1) of this rule and all of the following characteristics shall determine if a person is autistic:

(a) Disturbance in the capacity to relate appropriately to people, events, and objects.

(b) Absence, disorder, or delay of language, speech, or meaningful communication.

(c) Unusual, or inconsistent response to sensory stimuli in 1 or more of the following:

(i) Sight.

(ii) Hearing.

(iii) Touch.

(iv) Pain.

(v) Balance.

(vi) Smell.

(vii) Taste.

(viii) The way a child holds his or her body.

(d) Insistence on sameness as shown by stereotyped play patterns, repetitive movements, abnormal preoccupation, or resistance to change.

(3) To be eligible under this rule, there shall be an absence of the characteristics associated with schizophrenia, such as delusions, hallucinations, loosening of associations, and incoherence.

(4) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team. The team shall include, at a minimum, a psychologist or psychiatrist, a teacher of speech and language impaired, and a school social worker.

(5) A determination of impairment shall not be based solely on, behaviors relating to environmental, cultural, or economic differences.

PART 2.
EVALUATION, ELIGIBILITY, STUDENT ASSIGNMENT, AND DUE PROCESS PROCEDURES

R 340.1721 Parental consent for initial evaluation; contents of notice; refusal to consent or respond.

Rule 21.(1) Within 10 calendar days of receipt of a referral of a person suspected of being handicapped, and prior to any formal evaluation designed to determine eligibility for special education programs and services, the public agency shall notify the parent pursuant to R 340.1723a and R 340.1723b and shall request written consent to evaluate. This written notice shall contain all of the following:

(a) The reason or reasons an evaluation is sought and the nature of the evaluation.

(b) A full explanation of all the procedural safeguards available to the parent under part 2 of these rules.

(c) A description of the types of special education programs and services currently available within the intermediate school district.

(d) A list of organizations, including their addresses and telephone numbers, available to help parents of handicapped persons understand the special education process.

(e) A statement of the parent's right to inspect and review all education records with respect to the identification, evaluation, program, educational placement, and the provision of a free appropriate public education to the suspected handicapped student pursuant to the provisions of R 340.1861 to R 340.1866.

(f) A statement of the parent's right to be accompanied to the individualized educational planning committee meeting by any person or persons the parent desires.

(g) A statement of the parent's right to obtain an independent evaluation if he or she disagrees with the evaluation conducted by the public agency.

(h) A statement of the opportunity for the parent to provide the multidisciplinary evaluation team with information about the suspected handicapped person and the opportunity to present information at the individualized educational planning committee meeting.

(2) If the parent refuses consent to evaluate or does not respond within 7 calendar days, then the public agency has the right to request a hearing in this matter pursuant to R 340.1723a(3).

R 340.1721a Evaluation procedure.

Rule 21a.(1) Each student suspected of being handicapped shall be evaluated by a multidisciplinary evaluation team as defined in R 340.1701a(e). Members of the team may include other qualified personnel in areas related to the suspected disability, including, where appropriate, the following: health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor ability.

(2) The multidisciplinary team shall complete a diagnostic evaluation, including a recommendation of eligibility, and shall prepare a written report to be presented to the individualized educational planning committee by the appointed multidisciplinary team member. The report shall include information needed to determine eligibility and educational data which identifies the person's current level of educational performance. Information presented to the individualized educational planning committee shall be drawn from a variety of sources, including parent input, aptitude and achievement tests, teacher recommendations, physical condition, social or cultural background, adaptive behavior, and other pertinent information. No single procedure shall be used as the sole criterion for determining an appropriate educational program for a person.

(3) When evaluating a person suspected of being handicapped, the public agency shall assure that tests and other evaluation materials used by members of the multidisciplinary team comply with all of the following provisions:

(a) Are administered by trained personnel in conformance with the instructions provided by their producer.

(b) Are validated for the specific purpose for which they are used.

(c) Are designed to assess specific areas of educational need and not merely to provide a general intelligence quotient.

(d) Are reflective of the person's aptitude or achievement or whatever other factors the test purports to measure rather than reflecting the person's impaired sensory, manual, or speaking skills, unless this is what the test is intended to measure.

(e) Are selected and administered so as not to be socially or culturally discriminatory.

(4) When evaluating a person suspected of having a specific learning disability, at least 1 team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting. In the case of a child of less than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(5) The multidisciplinary evaluation team evaluating a person suspected of having a specific learning disability shall complete a written report which shall include, at a minimum, all of the following:

(a) A recommendation of eligibility and the basis for making this recommendation.

(b) The relevant behavior noted during the observation of the child and the relationship of that behavior to the child's academic functioning.

(c) The educationally relevant medical findings, if any.

(d) Whether there is a severe discrepancy between achievement and ability which is not correctable without special education.

(e) The determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(f) Each team member shall certify in writing whether the report reflects his or her conclusion. If it does not reflect his or her conclusion, the team member shall submit a separate statement presenting his or her conclusions.

(6) When evaluating a person suspected of being emotionally impaired, the multidisciplinary team report shall include documentation of all of the following:

(a) The person's performance in the educational setting and in other settings, such as adaptive behavior within the broader community.

(b) The systematic observation of the behaviors of primary concern which interfere with educational and social needs.

(c) The intervention strategies used to improve these behaviors, and the length of time these strategies were utilized.

(d) Relevant medical information, if any.

(7) For visually impaired students who have a visual acuity of 20/200 or less after routine refractive correction, or who have a peripheral field of vision restricted to not more than 20 degrees, an evaluation by an orientation and mobility specialist shall be conducted. The orientation and mobility specialist shall also include in the report a set of recommended procedures to be used by a mobility specialist or a teacher of the visually impaired in conducting orientation and mobility training activities.

(8) The parent or legal guardian shall inform the school district of the student's native language when giving consent to evaluate the student. Tests and other evaluation materials shall be provided and shall be administered in the student's native language, unless it is clearly unnecessary to do so. When evaluation in English is not feasible, the public agency shall do all of the following:

(a) Give first consideration to evaluative personnel who are competent in English and in the native language and culture of the student.

(b) When needing an interpreter, contract with a bilingual/bicultural psychologist trainee, an intern currently enrolled in a professional training program, or a person who is competent in English and in the native language and culture of the student.

(c) Provide interpreters for the deaf where appropriate.

(9) A vocational evaluation shall be conducted before a handicapped student receives vocational education. The evaluation shall be conducted by personnel qualified to administer and interpret the particular evaluations used.

(10)Special education personnel who are authorized to conduct evaluations of students suspected of being handicapped may provide pre-referral consultation to regular education personnel in accordance with procedures established by the department.

R 340.1721b Individualized educational planning committee participants.

Rule 21b.(1) The superintendent shall appoint participants to an individualized educational planning committee and shall invite the parents to be participants.

(2) Participants in an individualized educational planning committee meeting shall, at a minimum, include both of the following:

(a) A representative of the public agency, other than the child's teacher, who is qualified to provide, or supervise the provision of, special education.

(b) The student's teacher or a teacher appropriate for the student's age and ability if the student is not previously enrolled by the public agency. If the child is enrolled in regular education, at least 1 of the participants shall be a regular full-time teacher to whom the child is assigned.

(3) At the initial individualized educational planning committee meeting and at the 3-year comprehensive evaluation review meeting, a member of the multidisciplinary team is required to be a participant and present the written team report. At subsequent individualized educational planning committee meetings, members of the team may participate at the request of the parent or public agency. However, 1 of the meeting participants shall present the disabled person's current level of educational performance.

(4) In addition to the parent, other persons, at the discretion of the parent or public agency, may be invited to attend, including the person who is disabled, if appropriate. Upon request of the parent, a representative of the district of residence shall be invited to attend the individualized educational planning committee meeting if the district of residence has authorized the operating district to conduct the 3-year comprehensive evaluation review individualized educational planning committee meeting.

(5) In each case, the superintendent shall give consideration to the appointment of professional ancillary and other related services personnel.

(6) If a purpose of the meeting is the consideration of transition services for a student, in addition to the parent, the student and a representative of any other agency that is likely to be responsible for providing or paying for transition services shall be invited to attend. The notice of the meeting shall indicate that a purpose of the meeting is to consider transition services, shall indicate that the student will be invited to attend, and shall identify any other agency that will be invited to send a representative. If the student does not attend, the public agency shall take other steps to ensure that the student's preferences and interests are considered. If any other agency that was invited to send a representative to the meeting does not send a representative, the public agency shall take other steps to secure the participation of that agency in the planning of any transition services.

R 340.1721c Scheduling individualized educational planning committee meeting; requesting parent participation.

Rule 21c.(1) The district of residence is responsible for conducting the initial individualized educational planning committee meeting involving a student in its district and shall conduct, or authorize the operating district to conduct, each subsequent individualized educational planning committee meeting at a mutually agreed on time and place.

(2) The time from referral or from receipt of parental consent to an initial evaluation to the completion of the individualized educational program or the determination of ineligibility shall not exceed 30 school days. This time line begins upon receipt of the signed parental consent by the public agency requesting it and may be extended if agreed to by the parent and public agency.

(3) The parent shall be contacted by professional personnel from the school district to explain the purpose of the meeting and the roles and responsibilities of each participant. If an operating district is convening a 3-year reevaluation individualized educational planning committee meeting, as authorized by the resident district, the parent shall be informed of the parent's right to invite a representative of the resident district to be present at the meeting.

(4) If neither parent can attend, the public agency shall use other methods to insure parent participation, including individual or conference telephone calls. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents to attend. In this case, the public agency shall have a record of its attempts to arrange a mutually agreed on time and place, including all of the following:

(a) Detailed records of telephone calls made or attempted and the results of these calls.

(b) Copies of correspondence sent to the parents and any responses received.

(c) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

(5) The public agency shall take whatever action is necessary to insure that the parent understands the proceedings at the meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

R 340.1721d Responsibilities of the individualized educational planning committee.

Rule 21d.(1) Persons identified as being handicapped shall receive special education programs and services pursuant to the individualized educational planning committee program or pursuant to the final decision on an appeal.

(2) The individualized educational planning committee shall do all of the following:

(a) Determine the eligibility of persons suspected of being handicapped or review eligibility after the 3-year evaluation. A person is eligible, as a statutory right, for special education programs and services if the person is identified as having 1 or more of the impairments defined in part 1 of these rules, is not more than 25 years of age as of September 1 of the school year of enrollment, has not completed a normal course of study, and has not graduated from high school. A person reaching the age of 26 years after September 1 is entitled to continue in a special education program or service until the end of that school year.

(b) Consider the need for a change in the educational status for eligible handicapped persons.

(c) Develop, review, or revise each handicapped person's individualized education program annually.

(3) The individualized educational planning committee shall submit its report to the superintendent immediately upon completing the individualized educational program. The individualized educational planning committee may, after considering the least restrictive environment, recommend where the program and services may most

appropriately be provided and may identify for the superintendent the assignment options that were considered and the reasons why the recommended option was chosen. The report of the committee shall not be restricted to the programs and services available. In addition, the individualized education program shall not determine how the programs and services shall be delivered, except where such is an integral part of the placement or service itself.

R 340.1721e Individualized educational planning committee meeting; determination of eligibility for special education programs and services; individualized education program.

Rule 21e.(1) The superintendent shall convene an individualized educational planning committee meeting.

(2) The participants shall determine if the student is eligible for special education programs or services, or both. Eligibility shall be determined by the committee after receipt and review of the multidisciplinary team report and recommendation, and after consideration of any additional information presented by the participants. If a student is determined to be disabled, the committee shall write an individualized education program or may reconvene for this purpose. In either event, the time line specified in R 340.1721c(2) shall apply.

(3) An individualized education program shall be based on all diagnostic, medical, and other evaluative information requested by the committee or provided by the parent or person who is disabled and shall include all of the following information, in writing:

(a) A statement of the person's present level of educational performance.

(b) A statement of annual goals, including short-term instructional objectives.

(c) Appropriate objective criteria and evaluation procedures and schedules for determining whether the instructional objectives are being achieved.

(d) The extent to which the person is able to participate in regular education programs.

(e) An identification of the least restrictive environment program and related service options which were considered, including the reasons why the options were accepted or rejected in making the decision or decisions required in subdivision (f) of this subrule.

(f) A statement of the specific special education or ancillary and other related services, or both, to be provided to the person, giving consideration to the accessibility of physical facilities; transportation, including the need, if any, for aids or restraints; and room and board.

(g) Beginning at age 12, a statement indicating committee consideration of prevocational/vocational education needs.

(h) Beginning not later than age 16, or a younger age if determined appropriate, a statement of the needed transition services as defined in R 340.1701b(j), including, if appropriate, a statement of each public agency's and each participating agency's responsibilities or linkages, or both, before the student leaves the school setting. If the individualized educational planning committee determines that services are not needed in 1 or more of the areas specified in R 340.1701b(j), the individualized education program shall include a statement to that effect and the basis upon which the determination was made.

(i) The projected dates for initiation of special education programs and services and the anticipated duration of the programs and services.

(4) Any participant in the committee's deliberations who disagrees, in whole or in part, with the committee's determination may indicate the reasons therefore on the committee's individualized education program report or may submit a written statement to be attached to the report.

R 340.1722 Placement in special education programs and services.

Rule 22.(1) The individualized educational planning committee determines the educational placement of a student with a disability in programs and services from a continuum of alternative placements, such as instruction in regular classes, special classes or special instruction in regular classes, special classes or special schools, home instruction in hospitals and institutions, resource rooms, or itinerant instruction with regular class placements, including the options which are specified in the provisions of 34 C.F.R. §300.17 (1992), and which are adopted in these rules by reference. Copies of the adopted regulations are available from the United States Office of Special Education Programs, 400 Maryland Avenue S. W., Room 3623, Washington, D.C. 20202, or from the Michigan Department of Education, Office of Special Education Services, P.O. Box 30008, Lansing, Michigan 48909, at the cost of reproduction.

(2) Each public agency shall assure all of the following:

(a) That to the maximum extent appropriate, a person who has a disability, including a person who is assigned to a public or private institution or other care facility is educated with persons who do not have disabilities.

(b) That placement of a person who has a disability in special classes, separate schools, or the removal of a person who has a disability from the regular education environment occurs only when the nature or severity of the disability is such that education in a regular class using supplementary aids and services cannot be satisfactorily achieved.

(c) That a person whose disability is such that he or she requires special classes or facilities shall be placed in programs or services as close as possible to his or her home.

(d) That in selecting the least restrictive environment, consideration shall be given to any potentially harmful effects to the student or the quality of services that the student needs.

(3) Each public agency shall assure that each qualified person who has a disability shall be given the opportunity to participate with persons who do not have disabilities in nonacademic and extracurricular activities and services to the maximum extent appropriate to the needs of the individual. Nonacademic and extracurricular activities and services may include, but are not limited to, the following:

(a) Meals.

(b) Recess periods.

(c) Counseling services.

(d) Athletics.

(e) Transportation.

(f) Health services.

(g) Recreational activities.

(h) Special interest groups or clubs sponsored by the public agency.

(i) Referrals to agencies that provide assistance to individuals with disabilities.

(j) Referrals to employment agencies.

(k) Referrals for employment within the local educational agency.

(l) Assistance in making outside employment available.

(m) Referrals to other agencies for services based on need.

(4) The superintendent shall appoint a staff person to be responsible for the implementation of the individualized education program. This person shall be either the principal of the building where the primary educational program is provided to the person who has a disability or other staff person who is generally accessible to the staff and who will be working with the person who has a disability.

(5) The superintendent of the operating district shall give the parent of a person who has a disability a copy of the individualized education program. Each participant on the individualized educational planning committee and all

administrative and professional staff who will be directly involved in implementing the program shall have access to a copy of the individualized education program.

R 340.1722a Implementation of individualized education program.

Rule 22a.(1) An individualized education program shall be in effect at the beginning of each school year for every person who has a disability and who is receiving special education and related services from a public agency. The program shall be in effect before special education and related services are provided to a person who has a disability.

(2) The superintendent of the district of residence, upon receipt of the individualized educational planning committee's report, shall either appeal the eligibility decision or the determination of special education programs and services as specified in the individualized education program, or both, or within 7 calendar days provide written notice to the parent of the agency's intent to implement special education programs and services pursuant to the provisions of R 340.1723a and R 340.1723b. This notice shall identify where the programs and services are to be provided and when the individualized program shall begin. The 7-day notice does not abrogate the agency's right to request a due process hearing at any time.

(3) The parent, upon receipt of notification from the superintendent, shall have the right to appeal the individualized educational planning committee's eligibility decision, the individualized education program, or the placement decision pursuant to the provisions of R 340.1724. The parent may request a due process hearing at any time. If the parent does not appeal, the superintendent shall initiate the individualized education program as soon as possible, but not later than 15 school days after the parent has been notified. An initiation date may be later than 15 school days if clearly specified in the individualized education program; however, a projected initiation date shall not be used to deny or delay programs or services because they are not available and shall not be used for purposes of administrative convenience.

(4) If the person who has a disability is to be provided special education or ancillary and other related services for the first time, the parent shall have 10 calendar days after receipt of the notice from the superintendent to provide the public agency with written consent to provide special education programs and services. If the parent refuses consent or does not respond, then the public agency has the right to request a hearing on this matter pursuant to the provisions of R 340.1723a(3).

R 340.1722b Rescinded.

R 340.1722c Post initial individualized educational planning committee meetings; participant responsibilities.

Rule 22c.(1) An individualized education program shall be reviewed at least once every 12 months.

(2) The resident district superintendent shall convene, or authorize the operating district to convene, an individualized educational planning committee to review a handicapped person's individualized education program. Participants at a meeting for this purpose shall do all of the following:

(a) Review the person's level of educational performance.

(b) Review the appropriateness of the individualized education program content and determine if the annual goals, and the instructional objectives have been met.

(c) Recommend 1 or more of the following:

(i) Revision of the current individualized education program. Participants shall develop an individualized education program for the handicapped person, the components of which are identified in R 340.1721e(3).

(ii) Continuation of the current individualized education program.

(iii) Graduation.

(iv) Additional evaluation.

R 340.1722d Three-year evaluation of eligible handicapped persons.

Rule 22d.(1) Each eligible student who has a disability shall be provided with a comprehensive evaluation as described in R 340.1721a at least once every 36 months. The evaluation shall be completed by a multidisciplinary evaluation team and the results shall be presented at an individualized educational planning committee meeting pursuant to R 340.1721d(2)(a). The evaluation requires that an assessment take place to make accurate and effective decisions. A student shall be assessed in all areas related to the suspected disability and provide information to determine all of the following:

(a) The continued need for special education services.

(b) The effectiveness of the student's educational plan.

(c) The current needs of the student.

(d) The student's eligibility for special education.

(2) Parent input shall be sought as part of the reevaluation process. Parent consent is encouraged, but is not necessary, for the comprehensive evaluation, unless medical or personality testing is required. The comprehensive 3-year reevaluation need not include a redetermination of the student's previously established medical condition if a physician, as required pursuant to R 340.1707, R 340.1708, R 340.1709, or R 340.1714, has provided a written statement to the school district that the student's medical condition is permanent. However, the medical condition shall be redetermined if requested by the student's parent or school personnel.

R 340.1722e Previous enrollment in special education.

Rule 22e. If a student enrolled in a special education program in a school district or intermediate school district transfers to a new school district which necessitates a change in educational status, the student, with the written consent of the parent, shall be placed immediately in an appropriate special education program or service for a period not to exceed 30 school days, during which time an individualized educational planning committee shall be convened by the new district of residence to review and possibly revise the person's individualized education program. This case shall have precedence over all other cases, except previous cases also being expedited under this rule.

R 340.1722f Time limitation.

Rule 22f. Any time limitation in this part shall be construed and applied so as to do substantial justice and may be varied upon approval of the state board of education, or its designee, for good cause shown, in writing, by either the public agency or the parent. A copy of the request shall be sent by the superintendent or parent, as the case may be, to the other party, and the state board's response shall be directed to both the superintendent and the parent.

R 340.1723 Right to examine records.

Rule 23.(1) The parents of a handicapped or suspected handicapped person shall have the right to inspect and review all educational records with respect to both of the following:

(a) The identification, evaluation, program, and educational placement of the person.

(b) The provision of a free appropriate public education to the person.

(2) Parents have the right to request a copy of any or all contents of their child's educational records subject to R 340.1866.

R 340.1723a Prior notice; parental consent.

Rule 23a.(1) Written notice that meets the requirements of R 340.1723b shall be given to the parents of a person who is disabled or who is suspected to be disabled 10 calendar days before the public agency does either of the following:

(a) Proposes to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the person who is disabled.

(b) Refuses to initiate or change the identification, evaluation, special education program, educational placement of the person, or the provision of special education programs and services designed to develop the maximum potential of the person who is disabled.

(2) Parental consent shall be obtained before doing either of the following:

(a) Conducting a preplacement evaluation.

(b) Initially providing special education and related services to a person who is disabled.

(3) The public agency may use the hearing procedures in R 340.1724 to R 340.1724b to determine if the person may be evaluated or initially provided special education and related services without parental consent. If the hearing officer upholds the agency, the agency may evaluate or initially provide special education and related services to the person without the parent's consent, subject to the parent's rights under R 340.1725 and R 340.1725a.

R 340.1723b Content of notice required pursuant to R 340.1723a.

Rule 23b.(1) The notice required in R 340.1723a shall include all of the following information:

(a) A full explanation of all of the procedural safeguards that are available to the parents under part 2 of these rules and the provisions of 34 C.F.R. §300.500 to 300.534 (1992).

(b) A description and explanation of the action proposed or refused by rule number and title of the program or service, an explanation of why the agency proposes or refuses to take the action, and a description of any options the agency considered, including the reasons why those options were considered or rejected.

(c) A description of each evaluation procedure, test, record, or report that the agency used as a basis for the proposal or refusal.

(d) A description of any other factors that are relevant to the agency's proposal or refusal.

(2) The notice shall be in compliance with both of the following requirements:

(a) It shall be written in language that is understandable to the general public.

(b) It shall be provided in the native language of the parent, unless it is clearly not feasible to do so.

(3) If the native language of the parent is not a written language, the agency shall take steps to insure all of the following:

(a) That the notice is translated orally or by other means to the parent in their native language.
(b) That the parent understands the content of the notice.
(c) That there is written evidence that the requirements in subdivisions (a) and (b) of this subrule have been met.

R 340.1723c Right to independent educational evaluation.

Rule 23c.(1) The parents of a handicapped person or suspected handicapped person shall have the right pursuant to this part to obtain an independent educational evaluation, as defined in R 340.1701a(a), pursuant to the provisions of this subrule and subrules (2) to (7) of this rule.
(2) Each public agency shall provide parents with information about independent educational evaluations at public expense. The information shall include all of the following:
(a) Criteria regarding credentials for qualified examiners.
(b) Suggested sources and locations.
(c) Procedures for reimbursement.
(d) Reasonable expected costs.
(e) Notification that the parent is not restricted to choosing from sources suggested by the public agency.
(3) A parent has the right to an independent educational evaluation at public expense if the parent disagrees with an evaluation obtained by the public agency. The parent shall submit the parent's disagreement and request in written, signed, and dated form. However, the public agency may initiate a hearing pursuant to the provisions of R 340.1724 to show that its evaluation is appropriate. The public agency shall respond, in writing, to the request within 7 calendar days of its receipt by indicating the public agency's intention to honor the request or to initiate the hearing procedure pursuant to the provisions of R 340.1724. If the hearing officer determines that the evaluation is appropriate, the parent still has the right to an independent educational evaluation, but not at public expense.
(4) If the parent obtains an independent evaluation at the parent's own expense, the results of the evaluation shall be considered by the public agency and the individualized educational planning committee in any decision made with respect to the provision of a free appropriate public education to the person and may be presented as evidence at a hearing.
(5) If a hearing officer orders an independent educational evaluation as part of a hearing, the cost of the evaluation so ordered shall be at public expense.
(6) When an independent evaluation is at public expense, including those instances when the parent elects to use sources other than those identified by the public agency, the independent evaluator shall have the necessary credentials. The criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, shall be the same as the criteria that the public agency uses when it initiates an evaluation. The associated costs shall be reasonably in accord with those identified by the public agency pursuant to subrule (2) of this rule.
(7) The school district shall disclose to the parent, before evaluation, whether the examiner who was contracted to provide an independent educational evaluation provides services to the public agency that are in addition to the independent evaluation.
(8) An independent evaluation shall not be conducted by an examiner or examiners who otherwise or regularly contract with the public agency to provide services, unless the examiner or examiners are agreeable to the parent.

R 340.1724 Impartial due process hearing.

Rule 24.(1) A parent, the district of residence, the district of operation, or the department may initiate a hearing on any of the matters described in R 340.1723a(1)(a) and (b). The party initiating a hearing shall notify the other parties of its intent to initiate the hearing.

(2) The hearing shall be arranged or conducted by the district of residence of the person, and the district of residence shall pay all direct costs incurred by the school district as a result of arranging or conducting the hearing.

(3) The district of residence shall inform the parent, in writing, of any free or low-cost legal or other relevant services available in the area if the parent requests the information or if the parent or the agency initiates a hearing under this rule.

(4) Before the appointment of, or contracting with, a hearing officer, the hearing or procedure may be suspended, delayed, or terminated at any point upon written stipulation by the public agency and the parent without approval by the department. After the appointment or contract, the hearing may still be terminated by public agency and parent stipulation without approval of the department or hearing officer; however, delays, suspensions, or adjournments of the procedure require prior approval of the hearing officer. A copy of the stipulation to terminate shall be provided to the hearing officer.

(5) Interpreters shall be provided for persons of limited English speaking ability and for the deaf.

(6) Each public agency responsible for arranging or conducting a hearing shall produce a written, verbatim transcript of the hearing, and, upon request of the hearing officer or any party to the hearing, shall provide the requester with a copy of the transcript within the period of time required for the written decision of the hearing officer.

(7) Each public agency responsible for arranging or conducting a hearing shall immediately forward to the department 2 copies of the hearing decision; 1 with all personal identifiers pertaining to the student deleted and 1 with personal identifiers included.

(8) The department, upon receipt, shall transmit to the special education advisory committee, a copy of each hearing decision with personal identifiers deleted.

(9) The department shall send a copy of the decision to the intermediate school district with a notice to inform the department that the decision has been implemented pursuant to R 340.1725b(8).

R 340.1724a Impartial hearing officer; appointment.

Rule 24a.(1) The superintendent of the public agency shall contract for the services of an impartial hearing officer who is mutually agreeable to both parties or who has been appointed by the department. If the parent and the public agency cannot agree on a hearing officer, the superintendent shall request that the department appoint an impartial hearing officer.

(2) A hearing shall not be conducted by any of the following individuals:

(a) A person who is an employee of a public agency involved in the education or care of the person.

(b) Any person with a personal or professional interest which would conflict with the person's objectivity in the hearing.

(c) An employee or board member of the involved local school district, of another local district within the same intermediate school district, or of the intermediate school district of which the involved local district is a part.

(3) A person who qualifies to conduct a hearing under subrule (2) of this rule is not an employee of the agency solely because the person is contracted to serve as the hearing officer.

(4) Each public agency shall keep a current department-developed and department-distributed list of the persons who serve as hearing officers. This list shall be provided to parents upon any request for a hearing. The list shall include a statement of qualifications of each of those persons.

R 340.1724b Hearing rights.

Rule 24b.(1) Any party to a hearing has all of the following rights:

(a) The right to be represented, accompanied, and advised by counsel and by individuals who have special knowledge or training with respect to the problems of persons with disabilities.

(b) The right to present evidence and confront, cross-examine, and compel the attendance of witnesses.

(c) The right to prohibit the introduction of any evidence or the direct testimony of any witness if the evidence or testimony has not been disclosed to the party at least 5 calendar days before the hearing.

(d) The right to obtain a written or electronic verbatim record of the hearing.

(e) The right to obtain written findings of fact and decisions.

(2) The parent may request and obtain alternate forms of the verbatim record to be provided in the parent's native language.

(3) Parents who are involved in hearings have both of the following rights:

(a) The right to open the hearing to the public.

(b) The right to have the person who is the subject of the hearing present.

(4) The decision made by the hearing officer is final, unless a party appeals pursuant to the provisions of R 340.1725.

R 340.1724c Rescinded.

R 340.1724d Mediation.

Rule 24d.(1) Any party to a hearing, before the hearing, may request a mediation process in which the relief sought consists of a mutually agreeable settlement between the parties.

(2) The mediator shall be subject to mutual agreement by the parties, except that the same person shall not mediate and hear the same dispute.

(3) The mediation shall have no effect on the normal progress of the case toward a hearing, except in accordance with R 340.1724(4).

(4) If all the parties accept the mediator's recommendations, the mediator shall submit the written report to all parties. Within 5 school days of receipt of the report, an individualized educational planning committee shall be convened to incorporate the agreement into the individualized education program.

(5) If any party rejects the mediator's recommendations, the case shall proceed to hearing in the normal fashion.

R 340.1725 Administrative appeal; impartial review.

Rule 25.(1) Any party who is aggrieved by the findings and the decision of a hearing conducted pursuant to the provisions of R 340.1724 may appeal to the department within 25 calendar days of receipt of the decision for a state review. The appealing party shall send a copy of the party's appeal to the other party.

(2) If there is an appeal, the department shall conduct an impartial review of the hearing. The official who conducts the review shall do all of the following:

(a) Examine the entire hearing record, which shall be provided to the state by the public agency in written verbatim form.

(b) Ensure that the procedures at the hearing were consistent with the requirements of due process.
(c) Seek additional evidence if necessary. If a hearing is held to receive additional evidence, the rights specified in R 340.1724b apply.
(d) Afford the parties an opportunity for oral or written argument, or both, at the discretion of the reviewing official.
(e) Make an independent decision on completion of the review. The reviewing officer may affirm, reverse, or modify the decision of the hearing officer.
(f) Give a copy of the written findings and the decision to the parties, subject to the provisions of R 340.1723b(2) and (3).
(g) Send a copy of the decision to the intermediate school district with a notice to inform the department when the decision has been implemented pursuant to the provisions of R 340.1725b(8).
(3) The decision made by the reviewing official is final, unless a party brings a civil action pursuant to the provisions of R 340.1725a.

R 340.1725a Civil action.

Rule 25a. Any party aggrieved by the findings and decision made in a hearing and who does not have the right to appeal under R 340.1725, and any party aggrieved by the decision of a reviewing officer under R 340.1725, shall have the right to bring a civil action with respect to the issue presented pursuant to this rule without regard to the amount in controversy. A civil action may be brought in any court of competent jurisdiction.

R 340.1725b Time lines and convenience of hearings and reviews.

Rule 25b.(1) A hearing shall be scheduled not less than 15, nor more than 30, calendar days following receipt of the request from a parent or the public agency.
(2) The hearing officer shall, not later than 30 calendar days after the hearing, do both of the following:
(a) Reach a final decision regarding the hearing.
(b) Send a copy of the decision, by certified mail, receipt requested, to each of the parties and to the department.
(3) The total number of days stipulated in subrules (1) and (2) of this rule shall not be more than 45 calendar days.
(4) The department, upon receipt of a written request for a review, and upon the receipt of the transcripts and exhibits, shall insure that within 30 calendar days a final decision is reached in the review and a copy of the decision is sent, by certified mail, receipt requested, to each of the parties.
(5) Each hearing and each review involving oral arguments shall be conducted at a time and place reasonably convenient to the parties involved.
(6) In the absence of an appeal, unless otherwise specified in the hearing officer's decision or the reviewing official's decision, the decision shall be implemented by the public agency within 15 school days of the agency's receipt of the decision.

R 340.1725c Student's status during proceedings.

Rule 25c.(1) During the pendency of any administrative or judicial proceeding pertinent to this part, unless the public agency and the parents of the person agree otherwise, the person involved in the hearing shall remain in their present educational placement.

(2) If the hearing involves an application for initial admission to a public school, the person, with the consent of the parents, shall be placed in the public school program until the completion of all of the proceedings.

R 340.1725d Protecting students' rights.

Rule 25d. Each public agency shall assure that handicapped persons under the age of 18 have a parent or legal guardian to repesent their interests. If no parent or legal guardian, as defined in R 340.1701a(i) can be identified, or if the public agency, after reasonable effort, cannot discover the whereabouts of a parent or legal guardian, the public agency shall notify the court of jurisdiction and request the court to take action to assure that the person has a legal guardian.

R 340.1725e Hearing officer or state reviewing official; duties and authority.

Rule 25e.(1) In addition to the authority implied by the hearing rights stipulated in R 340.1724b, the hearing officer or state reviewing official has the authority to do all of the following:

(a) Require a prehearing conference to clarify matters pertaining to the hearing.

(b) Specify those uncontested portions of the student's individualized educational program only if necessary to assure that the decision can be implemented.

(c) Control the conduct of parties or participants in the hearing for the purpose of assuring an orderly procedure.

(d) Grant a specific extension of time at the request of either party for good cause.

(2) The hearing officer shall disclose to both parties any relationship of a professional or personal nature that might have a bearing on the hearing officer's ability to conduct a fair hearing or render an impartial decision and shall consider motions to disqualify himself or herself.

PART 3.
ADMINISTRATION OF PROGRAMS AND SERVICES

R 340.1732 Designation of residency.

Rule 32.(1) A handicapped person under 26 years of age as of September 1 who habitually sleeps, keeps personal effects and regularly lodges at a place not for the purpose of securing a suitable home but for an educational purpose, or who is lodged at a place as directed by an agency or institution under the auspices of a juvenile or probate court, the department of mental health, or the department of social services, such as a private home, group home, or a private or public institution, is a resident of the school district in which the person's parents reside, except in the following situations:

(a) The parents are legally separated or divorced, in which case the person is a resident of the district in which the parent having custody resides.

(b) A guardian has been appointed to provide the handicapped person with a suitable education, in which case the person is a resident of the district in which the guardian resides.

(c) The handicapped person has no living parent or a guardian, or the parents reside out of the state in which case the person is a resident of the district in which the probate court having control or custody is located.

(2) A handicapped person, who is not covered in subrule (1), of this rule and who is under 26 years of age as of September 1 is a resident of the school district in which the person habitually sleeps, keeps personal effects, and has a regular place of lodging for the purpose of securing a suitable home and not solely for an educational purpose.

(3) Notwithstanding the provisions of subrules (1) and (2) of this rule, if the handicapped person placed under the order or direction of a court or child placement agency is lodged in a state institution, a licensed foster home, a licensed nursing home, or a licensed group residential facility, then the local school district in which the institution, home, or facility is located shall provide for the delivery of special education programs and services to the handicapped person pursuant to section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled laws. The handicapped person shall be deemed to be a resident of the local district for the purpose of record maintenance required by section 1757 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1757 of the Michigan Compiled Laws and for the purpose of providing for the delivery of special education programs and services; however, for all other purposes, including funding, the handicapped person's residence shall be determined pursuant to subrules (1) and (2) of this rule.

(4) Notice of a disagreement between 2 or more school districts as to the residency of a handicapped person shall be sent to the department by a school district involved. The notice shall include the names of all of the school districts allegedly involved and the name and address of the parent, the guardian or the handicapped person if over 18 years of age. The department, or its representative, shall immediately notify the school districts allegedly involved and the parent, guardian or handicapped person of the receipt of notice of a disagreement. Within 7 calendar days of receipt of notice, all parties shall provide the department with their position and appropriate facts in support thereof. The department, or its representative, within 14 calendar days of receipt of notice of a disagreement, shall investigate the matter, consider the information received from the parties involved, and make a determination as to the residency of the handicapped person. A copy of the department's determination shall be sent to each party involved. Upon demonstration, in writing, of just cause by any party involved, the state board of education or its designee may extend the time limits set forth in this subrule.

R 340.1733 Program and service requirements; effective dates.

Rule 33. An intermediate school district, local district, and any other agency shall adhere to the following general requirements for all programs and services for persons who are disabled:

(a) Special education classrooms shall have at least the same average number of square feet per student, light, ventilation, and heat conditions as regular classrooms in the school district.

(b) Special education classrooms shall be located in schools housing regular education pupils of comparable age and grade level. Each person who is disabled shall be assigned to educational programs and services housed in buildings that allow persons who are disabled to participate fully in regular and special education programs, services, or extracurricular activities. Nothing in these rules shall prohibit special education programs, such as specialized vocational training or programs for more severely involved impairment areas, to be housed in places other than the schools with regular education programs, if such programs are set forth in the intermediate school district plan and are approved by the state board of education.

(c) Instructional and related service personnel shall have space which is appropriate for the kind of service being delivered and shall be designated on a scheduled basis in each building to afford individual and small group work. Light, ventilation, and heat conditions shall be the same as in classrooms within the building.

(d) Severely mentally impaired and severely multiply impaired special education classrooms with students under 16 years of age shall not exceed a 6-year age span at any one time. All other special education classrooms which have students under 16 years of age and which are operated in separate facilities shall not exceed a 4-year age span at any one time. The age span for students who are assigned to special education classrooms, except severely mentally impaired and severely multiply impaired, operated in elementary buildings attended by children who are nondisabled shall not exceed, at any one time, a 6-year age span or the age span of the students who are nondisabled in the building, whichever is less. The age span for students who are assigned to special education classrooms, except severely mentally impaired and severely multiply impaired, operated in secondary buildings attended by students who are nondisabled shall not exceed, at any one time, the age span of the students who are nondisabled in the building, except in high school buildings where students up to 26 years of age may be served. The term "nondisabled" shall not include persons participating in adult education programs. All severely mentally impaired, severely multiply impaired, and trainable mentally impaired programs shall comply with this subdivision unless a program is operated in accordance with an approved intermediate school district plan where, due to the low incidence of eligible students, expanded age ranges may be necessary for programmatic feasibility and meeting the needs of students.

(e) The special education programs' and services' methods of instruction shall be consistent with the short-term instructional objectives written for each person who is disabled.

(f) The instructional program for a school day shall focus on the individual needs of each person who is disabled, as determined through the individualized education programs.

(g) Special education programs and services shall be provided for at least the minimum number of hours and days of teacher-pupil contact in conformance with the pupil accounting rules, being R 340.1 to R 340.12, but the number of hours and days for a special education program or service shall be not less than those required for regular education programs.

(h) Persons who are disabled qualifying for special education programs and services shall be provided with supplies and equipment at least equal to those provided to other students in regular education programs, in addition to those supplies and equipment necessary to meet their defined short-term instructional objectives.

(i) Physical therapy service shall be provided to a person who is disabled if prescribed by an appropriate medical authority and recommended by the individualized educational planning committee as an essential component of the educational program.

(j) Physical education services, specially designed if necessary, shall be made available to every student who is disabled. Each student who is disabled shall be afforded the opportunity to participate in the regular physical education program available to students who are nondisabled, unless the student is enrolled full time in a separate facility or needs specially designed physical education as prescribed in the student's individualized education program.

(k) The expense of additional diagnostic services recommended by the individualized educational planning committee and required by the school district, including neurological, medical, psychiatric, and other professional services not provided by the school district or other public agencies nor covered by medical insurance, shall be borne by the disabled person's district of residence.

(l) Intermediate school districts or local districts may operate, or contract for, any of the following:

(i) Vocational evaluation services.

(ii) Work activity center services.

(iii) Ancillary and other related services.

(iv) Instructional services.

(m) Intermediate school districts or local districts, or a combination of such districts, shall provide work-study services and may assign special education personnel, such as a work-study coordinator, to supervise these services. A written work-study plan, signed by the parent, school, and employer, shall set forth all of the following information:

(i) Educational goals.

(ii) Job activities.

(iii) Related subjects.

(iv) Standards of attainment.

(v) Time and duration of the program.

(vi) Wages to be paid to the person who is disabled.

The superintendent of the district shall designate a staff member to visit the person and the person's supervisor at the job site at least once every 20 school days to check attendance, evaluate the disabled person's progress, and evaluate the placement in terms of the health, safety, and welfare of the person who is disabled. These services, if determined to be appropriate by the individualized educational planning committee, shall be available to each student who is disabled, regardless of disability, if personal adjustment training, prevocational education, and vocational education have been provided.

(n) Personnel development shall be conducted pursuant to findings of an annual needs assessment. The training shall be made available to both special and regular education personnel. The persons providing training, which may be district, university or agency, teacher center, or state department based, may include persons with disabilities and parents of persons with disabilities, as well as special and regular education personnel. The training programs to be delivered shall include all of the following if appropriate:

(i) Requirements and procedures of state and federal mandatory education acts.

(ii) Placement and education of the person who is disabled in the regular education curriculum, including the various aids and supportive services related thereto.

(iii) Affective education involving the importance of interaction with persons who are disabled on a peer level.

(o) Substitute instructional aides specified in R 340.1738, R 340.1739, and R 340.1748 shall be provided when assigned instructional aides are absent. In addition, teacher aides specified in R 340.1739 and R 340.1740 shall be provided when assigned teacher aides are absent.

(p) Secondary special education teachers shall teach either special education courses approved for graduation by the local education agency or special education courses within an approved special education curriculum.

(q) When an individualized educational planning committee determines that a student necessitates a categorical special education program, the student shall be assigned to a categorical program that corresponds to his or her primary disability. The program designation shall correspond to the special education teacher's endorsement which serves as the basis for the district's reimbursement pursuant to Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws, and known as the state school aid act of 1979. Placement in a program other than that which corresponds to the student's eligibility category may occur when the individualized educational planning committee includes, within the individualized educational program, a rationale for its determination and the parent consents to the alternative program. The public agency may use the hearing procedures in R 340.1724 to R 340.1724b when the parent refuses to provide consent. If the hearing officer upholds the agency, the agency may proceed without the parents' consent, subject to the parents' rights under R 340.1725 and R 340.1725a.

(r) If a participating agency fails to provide agreed-upon transition services contained in the individualized education program of a student who has a disability, the public agency responsible for the student's education shall, as soon as possible, initiate a meeting for the purpose of identifying alternative strategies to meet the transition objectives and, if necessary, revising the student's individualized education program. Nothing in this part relieves any participating agency, including a state vocational rehabilitation agency, of the responsibility to provide or pay for any transition service that the agency would otherwise provide to students who have disabilities and who meet the eligibility criteria of the agency.

R 340.1734 Deviations from rules.

Rule 34.(1) A deviation from these rules shall be requested in writing from the state board of education or its designee by an intermediate or local school district that operates or contracts for special education programs and services. A copy of the request shall be filed concurrently with the intermediate school district in which affected persons with disabilities reside and all local constituent school districts in which the affected persons with disabilities reside. A copy of the request shall be filed concurrently with the parent advisory committee of the intermediate school district that requests the deviation and the parent advisory committee of any intermediate school district in which affected persons with disabilities reside.

(2) Within 7 days of receipt of the request, the intermediate school district shall review and inquire into the request and shall file, with the department, its position regarding the appropriateness of the request and its objections to, or endorsement of, the request, together with the rationale regarding its position.

(3) The state board of education or its designee shall initiate action within 30 calendar days of receipt of the request. The board or designee may grant the request in writing for a period not to extend beyond the end of the current school year and upon such terms and conditions as it shall specify only when, in its judgment, the best interests of those persons with disabilities affected by the deviation are served and good cause is shown.

(4) A deviation shall not be granted when the intent of the deviation is to exclude a person with a disability from, or deny a person with a disability participation in, a special education program or service that is required.

(5) A program deviation that is granted by the state board of education or its designee is public information. The affected intermediate school districts and local constituent districts shall inform their involved personnel of granted deviations in any manner they deem appropriate. At a minimum, the parent advisory committee shall be informed of the disposition of the request.

(6) A deviation shall not be requested for the purpose of avoiding or postponing corrections directed by the department pursuant to part 8 of these rules.

(7) If a final decision to deny a deviation request is made, the school district that makes the request shall correct the condition that precipitated the request and shall forward, to the department, office of special education, within 30 school days of the denial, its assurance that the matter is now in compliance with the respective rule.

(8) Nothing in this rule or any other provision of statute or regulation shall permit the state board of education to waive any of the requirements of Part B of the individuals with disabilities education act of 1990, 20 U.S.C. §1400 et seq.

R 340.1736 Paraprofessional personnel.

Rule 36. Paraprofessional personnel may be employed to assist special education professional personnel pursuant to the intermediate school district plan. Paraprofessional personnel include teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for the severely mentally impaired and the severely multiply impaired.

R 340.1737 Additional requirements by handicapping condition.

Rule 37. Each type of handicapped person, as defined in part 1 of these rules shall be provided programs and services pursuant to the intermediate district plans and the specific requirements in R 340.1738 to R 340.1749 and R 340.1754 to R 340.1758, in addition to the programs generally provided to all handicapped children as described in R 340.1733.

R 340.1738 Severely mentally impaired programs.

Rule 38. Specific requirements for programs and services for the severely mentally impaired shall be as follows:

(a) An instructional unit for the severely mentally impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 12 students. The maximum number of students may be extended to 15 if an additional instructional aide is assigned with the placement of the thirteenth student. At least 1 full-time teacher and 1 full-time aide shall be employed in every program for the severely mentally impaired.

(b) Severely mentally impaired programs shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.

(c) Persons employed in a severely mentally impaired program shall have the following responsibilities:

(i) Teachers shall be responsible for the instructional program and shall coordinate the activities of aides and supportive professional personnel.

(ii) Instructional aides shall work under the supervision of the teacher and assist in the student's daily training program.

(iii) Program assistants may assist the teacher and the instructional aides in the feeding, lifting, and individualized care of severely mentally impaired students.

(d) Curriculum for severely mentally impaired programs shall include all of the following:

(i) Cognitive skills.

(ii) Social skills.

(iii) Activities of daily living.

(iv) Leisure education.

(v) Language and communication skills.

(vi) Prevocational and vocational activities.

(e) Instructional and ancillary and other related services performed by the following persons shall be available as determined appropriate for the student's needs:

(i) A physical therapist.

(ii) An occupational therapist.

(iii) A teacher of the speech and language impaired.

(iv) A teacher consultant.

(v) A psychologist.

(vi) A school social worker.

(f) A registered nurse shall be reasonably available.

R 340.1739 Trainable mentally impaired programs.

Rule 39. Specific requirements for programs and services for the trainable mentally impaired are as follows:

(a) After August 31, 1975, all classroom programs for the trainable mentally impaired shall be provided in buildings constructed or renovated for use as school facilities.

(b) A classroom unit for the trainable mentally impaired shall consist of either of the following:

(i) One teacher and 1 teacher aide for a maximum of 15 students.

(ii) One lead teacher with maximum of 3 instructional aides for a maximum of 30 students, with not more than 10 students for each aide.

R 340.1740 Educable mentally impaired programs; number of students.

Rule 40.(1) Elementary programs for the educable mentally impaired shall serve not more than 15 different students. When an elementary program for the educable mentally impaired has 12 or more students in the room at one time, an aide shall be assigned to the program.

(2) Secondary programs for the educable mentally impaired shall have not more than 15 different students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

R 340.1741 Emotionally impaired programs; number of students.

Rule 41. Programs for the emotionally impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

R 340.1742 Hearing impaired programs; effective dates.

Rule 42.(1) Specific requirements for programs and services for hearing impaired persons are as follows:

(a) A special class with 1 teacher shall have an enrollment of not more than 7 students.

(b) Group amplification devices deemed necessary for instruction by the individualized educational planning committee shall be provided. The public agency shall insure that the amplification devices worn by hearing impaired children in school are functioning properly.

(c) Communication skills and language shall be emphasized as an integral part of the curriculum.

(2) The Michigan school for the deaf shall be considered a part of the total continuum of services for hearing impaired persons. The following procedures are necessary for admission:

(a) A request for assignment to the Michigan school for the deaf shall be submitted by the intermediate school district superintendent or designee to the superintendent of the Michigan school for the deaf.

(b) Before application, the person shall have been identified by the referring school district as hearing impaired pursuant to R 340.1707.

(3) The resident district shall conduct the individualized educational planning committee meeting which initiates an assignment into the Michigan school for the deaf. Representatives of the intermediate school district of residence and the Michigan school for the deaf shall be invited to participate in the individualized educational planning committee meeting. Subsequent individualized educational planning committee meetings shall be reconvened pursuant to R 340.1722c.

R 340.1743 Visually impaired programs.

Rule 43.(1) Specific requirements for programs and services for the visually impaired are as follows:

(a) Class size shall be determined by the severity and multiplicity of the impairments of the visually impaired students. A special class with 1 teacher shall have an enrollment of not more than the equivalent of 8 full-time

students, and the teacher shall be responsible for the educational programming for not more than 10 different students.

(b) The curriculum shall include instruction in orientation and mobility, assistance in early development of comprehensive communication skills, personal adjustment education, and prevocational and vocational experience. The public agency shall insure that low vision aids, excluding prescription eye glasses, are available and functioning properly.

(c) An agency operating special education programs and services for the visually impaired may also operate a program of transcription of education materials into braille pursuant to R 388.261 to R 388.265 of the Michigan Administrative Code.

(2) The Michigan school for the blind shall be considered a part of the total continuum of services for visually impaired persons. The following procedures are necessary for admission:

(a) A request for assignment to the Michigan school for the blind shall be submitted by the intermediate school district superintendent, or his or her designee, to the superintendent of the Michigan school for the blind.

(b) Before application, the person shall have been identified by the referring school district as visually impaired pursuant to R 340.1708.

(3) The resident district shall conduct the individualized educational planning committee meeting which initiates an assignment into the Michigan school for the blind. Representatives of the intermediate school district of residence and the Michigan school for the blind shall be invited to participate in the individualized educational planning committee meeting. Subsequent individualized educational planning committee meetings shall be reconvened pursuant to R 340.1722c.

R 340.1744 Physically and otherwise health impaired programs.

Rule 44.(1) Programs for the physically and otherwise health impaired shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

(2) Adaptive devices deemed necessary for instruction by the individualized educational planning committee shall be provided.

(3) Special classroom units serving physically and otherwise health impaired shall provide not less than 60 square feet of floor space per person.

(4) Health care aides may be employed to serve in a supportive capacity to the nurse, physical therapist, or occupational therapist.

(5) Paraprofessionals may be employed to serve the program and may be assigned by the teacher to assist any of the following persons in a supportive capacity:

(a) A nurse.

(b) An occupational therapist.

(c) A physical therapist.

(d) A speech and language teacher.

R 340.1745 Speech and language impaired instructional services.

Rule 45. Specific requirements for instructional services for the speech and language impaired are as follows:

(a) The extent of instructional services provided by a teacher of the speech and language impaired for persons determined to be eligible for special education in R 340.1703 to R 340.1715 shall be based on the handicapped

person's needs as determined by the individualized educational planning committee after reviewing a diagnostic report provided by a teacher of the speech and language impaired.

(b) The determination of caseload size for an individual teacher of the speech and language impaired shall be made by the teacher of the speech and language impaired in cooperation with the district director of special education, or his or her designee, and the building principal or principals of the school or schools in which the students are enrolled. Caseload size shall be based upon the severity and multiplicity of the handicaps and the extent of the service defined in the collective individualized education programs of the students to be served, allowing time for all of the following:

(i) Diagnostics.

(ii) Report writing.

(iii) Consulting with parents and teachers.

(iv) Individualized educational planning committee meetings.

(v) Travel.

(c) Individual teacher caseloads shall not exceed 60 different persons and shall be adjusted based on factors identified in subdivision (b) of this rule. Students being evaluated shall be counted as part of the caseload.

R 340.1746 Homebound and hospitalized services.

Rule 46. Specific requirements for homebound and hospitalized services are as follows:

(a) Homebound services shall be initiated within 15 school days after verification, by a licensed physician, of a medical handicap which requires the eligible special education student to be confined to the home. Such verification shall indicate the anticipated duration of the required confinement.

(b) Hospital service shall be provided for eligible special education students who cannot attend school because of hospitalization for a physical or medical impairment. These services shall be initiated when determined medically feasible.

(c) A special education teacher employed for homebound or hospital services, or for a combination of these services, shall be assigned not more than 12 students at any one time.

(d) Progress reports for each person shall be recorded pursuant to the intermediate school district plan.

(e) Students receiving homebound or hospital services shall receive a minimum of 2 nonconsecutive hours of instruction per week. Related services personnel may supplement, but not substitute for, the teacher's instruction.

(f) It is the responsibility of the district in which the hospital is located to make homebound and hospital services available to eligible students. If the student is hospitalized outside of the district of residence, the district of residence is responsible for delivering services or for contracting with the operating district and making payment for the services.

(g) Homebound and hospitalized services shall not be substituted for special education programs. Rather, the service provider shall endeavor, to the extent appropriate, to present curricular experiences which are being provided in the program where the student is currently enrolled.

R 340.1747 Specific learning disabilities programs; number of students.

Rule 47. Programs for the learning disabled shall have not more than 10 students in the classroom at any one time, and the teacher shall be responsible for the educational programming for not more than 15 different students.

R 340.1748 Severely multiply impaired programs.

Rule 48. Specific requirements for programs and services for the severely multiply impaired who are unable to function within other special education programs which deal with a single handicap are as follows:

(a) An instructional unit for the severely multiply impaired shall consist of at least 1 teacher and 2 instructional aides for a maximum of 9 students. At least 1 full-time teacher and 1 full-time aide shall be employed in every severely multiply impaired program.

(b) Severely multiply impaired programs shall consist of a minimum of 230 days and 1,150 clock hours of instruction. The first 5 days when pupil instruction is not provided because of conditions not within the control of school authorities, such as severe storms, fires, epidemics, or health conditions as defined by the city, county, or state health authorities, shall be counted as days of pupil instruction. Subsequent days shall not be counted as days of pupil instruction.

(c) The program for each student shall emphasize education relating to the multiple handicaps rather than education relating to a single handicap in isolation and shall encourage instructional or social experiences in programs for single disabilities for some portion of the instructional day. The individualized educational planning committee may recommend the portion of the day the student will spend in the experiences. An aide shall be available to meet the individual student's needs during this time, if necessary.

(d) Persons employed in severely multiply impaired programs shall have the following responsibilities:

(i) Teachers shall be responsible for the instructional program, shall coordinate the activities of instructional aides and other supportive personnel, and shall maintain a systematic method of home-school liaison.

(ii) Instructional aides shall work under the supervision of the teachers.

(iii) Program assistants shall be utilized where necessary and shall have the responsibilities indicated in R 340.1738 for program assistants in severely mentally impaired programs; otherwise, instructional aides shall have these responsibilities.

(e) Curriculum for severely multiply impaired programs shall include all of the following:

(i) Cognitive skills.

(ii) Social skills.

(iii) Activities of daily living.

(iv) Leisure education.

(v) Language and communication skills.

(vi) Prevocational and vocational activities.

(f) Instructional and ancillary and other related services performed by the following persons shall be available as determined appropriate for the student's needs:

(i) A physical therapist.

(ii) An occupational therapist.

(iii) A teacher of the speech and language impaired.

(iv) A teacher consultant.

(v) A psychologist.

(vi) A school social worker.

(g) A registered nurse shall be reasonably available.

R 340.1749 Teacher consultant; caseload; responsibilities.

Rule 49.(1) The teacher consultant for special education shall do 1 or more of the following:

(a) Provide instructional services to students who are enrolled in special education programs. Instructional services are supportive of the special education teacher. A teacher consultant shall not grade, give credit for, or teach a regular education or a special education subject, class, or course.

(b) Provide instructional services to a student whose handicap is such that the student may be educated effectively within a regular classroom if this service is provided to the student. Instructional services are supportive of the regular education teacher. The teacher consultant shall not grade, give credit for, or teach a regular education subject, class, or course.

(c) Provide consultation to education personnnel on behalf of handicapped persons on the consultant's caseload.

(d) Work as a member of a multidisciplinary evaluation team to assist in the evaluation of the educational needs of persons suspected of being handicapped.

(2) The teacher consultant shall carry an active caseload of not more than 25 handicapped students. All students served under this rule shall be counted as part of the caseload. In establishing the caseload, consideration shall be given to time for all of the following:

(a) Instructional services.

(b) Evaluation.

(c) Consultation with special and regular education personnel.

(d) Report writing.

(e) Travel.

(3) The teacher consultant shall not serve in supervisory or administrative roles.

R 340.1749a Elementary level resource program.

Rule 49a.(1) A special education elementary level resource program may be provided by a special education teacher who has 2 years of teaching experience, 1 of which shall be in a special education classroom. This program is designed for eligible handicapped students who, through individualized educational planning committee determination, need 50% or less of their instructional school day in special education and who need 2 or less of the instructional content areas of language arts, mathematics, science, and social studies taught solely by the resource teacher.

(2) The elementary resource teacher shall serve not more than 10 students at any one time and not more than 18 different students and shall do either or both of the following:

(a) Provide direct instruction to students on the resource teacher's caseload and may assign grades or other evaluative measures for this instruction.

(b) Provide support to the regular education classroom teachers to whom special education students on the resource teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The elementary resource teacher may provide supplemental instruction to students on his or her caseload.

(4) The elementary resource teacher may evaluate regular education students within the same building who are suspected of being handicapped and, therefore, may serve on the initial multidisciplinary evaluation team. The resource teacher shall be responsible for the evaluation of not more than 2 students at one time. Time shall be allocated to the resource teacher to carry out this responsibility.

(5) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

R 340.1749b Secondary level resource program.

Rule 49b.(1) A special education secondary level resource program may be provided by a special education teacher who has 2 years of teaching experience, 1 of which shall be in a special education classroom. This program is designed for eligible handicapped students who, through individualized educational planning committee determination, need 3 periods or less of their instructional school day in special education and who need 2 or less of the instruction content areas of language arts, mathematics, science, and social studies taught solely by the resource teacher.

(2) A secondary resource teacher shall serve not more than 10 students at any one time and have a caseload of not more than 20 different students and shall do either or both of the following:

(a) Provide direct instruction for special education courses approved for graduation by the local educational agency. The teacher may assign grades or other evaluative measures for this instruction.

(b) Provide support to the regular education classroom teachers to whom special education students on the resource room teacher's caseload have been assigned. Time shall be allocated to the resource teacher to carry out this responsibility.

(3) The secondary resource teacher may provide supplemental instruction to students on his or her caseload who are enrolled in regular education classes. The teacher shall not teach a class and offer tutorial assistance at the same time.

(4) If the special education teacher to whom the student is assigned does not have an endorsement in the area which matches the student's disability, the individualized educational planning committee shall determine if a teacher consultant with such credentials is needed to provide consultation, resources, and support services to the resource teacher.

(5) Secondary schools with more than 1 resource program may departmentalize pursuant to R 340.1749c.

R 340.1749c Departmentalization of secondary special education programs.

Rule 49c.(1) A secondary school with more than 1 special education teacher may departmentalize.

(2) Each teacher shall teach only 1 local education agency approved special education course per period.

(3) Each teacher may serve more than the students assigned to his or her caseload; however, the total number of students served cannot exceed the combined caseloads of the participating teachers.

(4) Each teacher shall serve not more than an average of 10 students per class period per instructional day.

R 340.1750 Director of special education.

Rule 50.(1) Local districts may employ, or contract for the services of, a full- or part-time, but not less than half-time, director of special education pursuant to the intermediate district plan.

(2) Each intermediate school district shall employ, or contract for the services of, a full-time director of special education. For the intermediate school district to qualify for reimbursement, the intermediate school district director shall perform such full-time duties as the following:

(a) The development, organization, and administration of special education programs and services.

(b) The planning and conducting of inservice education programs.

(c) The development and maintenance of continuous evaluation procedures for special education.

(d) The liaison with school staff and the community.

(e) The preparation of special education reports.

(f) Other duties related to special education as assigned.

R 340.1751 Supervisor of special education.

Rule 51.(1) Each school district may employ a supervisor of special education instructional programs. Such supervisor shall perform in an administrative, supervisory, or consultative capacity for the instructional phases of specific areas of special education. The person shall perform such full- or part-time, but not less than half-time, duties as pursuant to the intermediate school district plan. Duties include all of the following:

(a) Supervising and advising teachers providing instructional programs for the handicapped.

(b) Assisting in the planning and conducting of inservice education programs.

(c) Providing consultative services to the entire staff of the district and others concerning the instructional phases of specific areas of special education, including computer-aided instruction.

(d) Other administrative duties relating to special education, as assigned.

(2) While a supervisor's primary responsibility is the supervision of personnel providing special education, duties may also include the supervision of ancillary and other related service personnel.

R 340.1752 Rescinded.

R 340.1753 Curriculum resource consultant.

Rule 53. A curriculum resource consultant specializes in all of the following:

(a) The structure and planning of curriculum.

(b) Instructional materials and media, including computer assisted instruction.

(c) Inservice education.

(d) Adaptive technology.

(e) Needs assessment.

(f) The acquisition, categorization, evaluation, or distribution of materials.

R 340.1754 Preprimary impaired classroom programs.

Rule 54. Specific requirements for classroom programs for the preprimary impaired are as follows:

(a) A special education-approved, preprimary teacher shall be provided to children 3 through 5 years of age based upon the child's individual needs as specified by the individualized educational planning committee. Districts may include children through 2 years of age as specified by the individualized educational planning committee.

(b) The program shall be available for a minimum of 360 clock hours and 144 days of instruction.

(c) The program shall have not more than 12 students for 1 teacher and 1 aide at any one time, and the teacher shall have responsibility for the educational programming for not more than 24 different students.

(d) The program shall have a parent participation and education component.

R340.1755 Nonclassroom services to preprimary age children.

Rule 55. Specific requirements for nonclassroom services for preprimary age impaired children are as follows:

(a) Services shall be provided by a special education-approved, preprimary teacher or approved ancillary and other related services staff to children through 2 years of age based upon the child's individual needs as specified by the individualized educational planning committee. Districts may include children through 5 years of age as determined by the individualized educational planning committee. Approved ancillary and other related services staff shall work under the supervision of a certified teacher approved pursuant to R 340.1795.

(b) Nonclassroom services shall be provided for a minimum of 2 hours per week, but not less than 72 clock hours within 180 school days. Services may be provided in a home or school setting.

(c) A nonclassroom services unit for preprimary age children shall consist of 1 of the following:

(i) One teacher or approved preprimary ancillary and other related services staff for a maximum of 15 children.

(ii) One lead teacher or approved preprimary ancillary and other related services staff and 1 aide for a maximum of 22 children.

(iii) One lead teacher or approved preprimary ancillary and other related services staff and 2 aides for a maximum of 30 children.

(d) The program shall have a parent participation and education component.

R 340.1756. Severely language impaired classroom programs.

Rule 56.(1) A public agency may establish classroom programs for severely language impaired persons. Specific requirements for these programs are as follows:

(a) A severely language impaired classroom program conducted by a teacher of the speech and language impaired shall serve only the preprimary or elementary level severely language impaired.

(b) The program shall have not more than 10 students in the classroom at any one time, and the teacher shall have responsibility for the educational programming for not more than 15 different students.

(2) Speech and language impaired persons eligible for this program are those with a severe disability in the comprehension or expression of language as determined through the manifestation of all of the following characteristics which adversely affects educational performance:

(a) Demonstration of functioning within or above normal intellectual potential as measured by instruments that do not rely exclusively on oral direction or oral expression.

(b) Test results on not less than 2 standardized assessment instruments or 2 subtests designed to determine language functioning which clearly show language functioning not appropriate for the person's mental age.

(c) Oral language at less than the expected level based on the person's mental age in not less than 2 of the following areas:

(i) Phonology.

(ii) Morphology.

(iii) Syntax.

(iv) Semantics.

(v) Pragmatics.

(3) A determination of impairment shall be based upon a comprehensive evaluation by a multidisciplinary evaluation team which shall include a teacher of the speech and language impaired and a psychologist.

(4) The severely language impaired program shall not include persons whose language impairment is primarily the result of autism or mental, emotional, hearing, visual, physical, or other health impairments as defined in part 1 of these rules.

R 340.1757 Other related educational services for youth placed in juvenile detention facilities.

Rule 57. Specific requirements for educational services conducted for youth placed in juvenile detention facilities are as follows:

(a) Programs shall be initiated within 5 calendar days after admission. If a person placed in a juvenile detention facility is suspected of being handicapped, the procedure outlined in part 2 of these rules shall be immediately followed.

(b) Notification of educational placement shall be sent to the superintendent of the district of residence within 5 school days after the date of entry of a person into the educational program in a juvenile detention facility.

(c) Education reports for each person educated in a juvenile detention facility shall be sent by certified mail to the superintendent of the district of residence, with the consent of the parent, within 5 school days from the date of release from the facility.

(d) Special education reimbursed personnel may provide educational services for nonhandicapped persons placed in the facility, if the programs comply with both of the following:

(i) They are under the supervision of a teacher approved in the area of the emotionally impaired.

(ii) They have not more than 10 students in a class at any one time.

R 340.1758 Classroom programs for the autistic impaired.

Rule 58.(1) Specific requirements for programs for the autistic shall be provided using either of the following alternatives:

(a) Programs that consist of 1 classroom program for the autistic impaired shall not have more than 5 students and shall be served by a teacher of the autistic. However, programs that consist of more than 1 classroom may have more than 5 students in a classroom, if the average student-to-teacher-and-aide ratio does not exceed 5 students to 1 teacher and 1 aide. A classroom with 3 or more students shall have 1 aide.

(b) A special education program described in section 1.6(2) of the intermediate school district plan set forth in R 340.1832 and approved by the state board of education that assures the provision of educational programming for autistic students.

(2) Specific requirements for either program shall include, but not be limited to, all of the following:

(a) Language and communication development.

(b) Personal adjustment training.

(c) Prevocational education.

PART 4.
QUALIFICATIONS OF DIRECTORS AND SUPERVISORS

R 340.1771 Director of special education; education and experience requirements.

Rule 71.(1) For full approval, a director of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful professional practice or administrative experience in special education, or combination thereof.

(d) Thirty semester or 45 term hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency as related to special education in the following areas:

(i) Program development and evaluation.

(ii) Personnel staffing, supervision, and evaluation.

(iii) Interpersonal relationships, communications, persuasion, and morale.

(iv) Evaluation of inservice organization and management.

(v) Budgeting, financing, and reporting.

(vi) Parent relationships.

(vii) School plant planning.

(viii) Consultation.

(ix) Research and grant writing.

(x) Office management, including office automation.

(xi) School-related legal activities and due process hearing.

(xii) Computer-assisted management.

(e) One year of successful experience as a special education director in an approved special education program.

(f) Recommendation from a college or university approved for the preparation of special education directors which attests that the person has acquired the knowledge and competencies in subdivision (d) of this subrule and has demonstrated leadership ability and general knowledge of issues and problems in all disability areas of special education.

(2) For temporary approval, a director of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful professional practice or administrative experience in education, or combination thereof.

(d) Twelve semester or 18 term hours of graduate credit and a successful 200-clock-hour practicum in special education administration. Graduate credit shall be earned in a college or university whose program has been approved by the state board of education and shall be distributed appropriately to assure knowledge and competency related to special education in the areas designated in subrule (1)(d) of this rule.

(e) Recommendation from a college or university approved for the preparation of special education directors.

(3) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or 9 term hours of required credit toward full approval before the beginning of the next school year.

(4) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a director to gain full approval.

R 340.1772 Supervisor of special education; education and experience requirements.

Rule 72.(1) For full approval, a supervisor of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Twelve semester or 18 term hours of graduate credit in a college or university whose program has been approved by the state board of education. Graduate credit shall be distributed appropriately to assure knowledge and competency as related to special education in the following areas:

(i) Systematic study of curriculum.

(ii) Administrative and supervisory procedures.

(iii) Evaluation methods and procedures.

(iv) Communication skills techniques.

(v) Inservice education.

(vi) Computer-aided instruction.

(e) One year of successful experience as a supervisor of special education in an approved special education program.

(f) Recommendation from a college or university approved for the preparation of special education supervisors relative to leadership, knowledge, and competency in the areas listed in subdivision (d) of this subrule.

(2) For temporary approval, a supervisor of special education shall possess all of the following minimum qualifications:

(a) An earned master's degree or equivalent.

(b) Full approval in at least 1 area of special education.

(c) Three years of successful experience in special education.

(d) Recommendation from a college or university approved by the state board of education for preparation of special education supervisors.

(3) Continuation of temporary approval is dependent upon the satisfactory completion of not less than 6 semester or 9 term hours of required credit toward full approval before the beginning of the next school year.

(4) Any person who has completed all course work and practicum requirements in effect before the effective date of these rules shall only be required to complete 1 year of successful experience as a supervisor to gain full approval.

R 340.1773 Presently employed director or supervisor.

Rule 73. A director or supervisor of special education programs with full approval status on the date this rule becomes effective shall maintain full approval.

PART 5.
QUALIFICATIONS OF TEACHERS AND OTHER PERSONNEL

R 340.1781 Teachers of the handicapped; approval generally.

Rule 81.(1) Beginning September 1, 1990, a teacher seeking full approval by the state board of education or its designee shall meet the following general skill requirements, in conjunction with those of R 340.1782 to R 340.1788, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799d, before being employed by an intermediate school district, constituent district, or other agency operating special education programs and services:

(a) Theoretical foundations as follows:

(i) Understanding of human growth and development, which shall include all of the following:

(A) Typical and atypical development.

(B) Stages from conception to death.

(C) Affective, language, cognitive, and sensorimotor areas.

(D) Factors influencing development, including physiological, social, physical environment, and psychological.

(ii) Understanding of learning and teaching theories.

(iii) Knowledge of construction, interpretation, application, and limitation of standardized and nonstandardized assessment procedures.

(iv) Knowledge of handicapping conditions and their educational implications.

(b) Curriculum and instruction as follows:

(i) Understanding of curriculum design and instructional strategies.

(ii) Understanding of, and ability to adapt to, regular and special curriculum and instructional strategies to meet individual learning styles.

(c) Special education instructional systems as follows:

(i) Knowledge of program delivery systems, including all levels of service.

(ii) Understanding of individual and group management structures.

(iii) Understanding of effective use of school and outside resources in creating a positive learning environment.

(iv) Understanding a variety of systems for reporting and evaluating the effectiveness of an individual student's program.

(v) Understanding of the child study/team planning process.

(vi) Ability to translate comprehensive assessment data reflecting the student's current level of functioning into an individual educational plan.

(vii) Understanding of how adaptive technology may be used to enhance the education of handicapped students.

(d) Communication/consultation as follows:

(i) Knowledge of institutional and administrative factors which facilitate or impede delivery of services.

(ii) Ability to effectively communicate the needs and rights of handicapped persons.

(iii) Ability to use interpersonal skills when working with parents, professionals, agencies, students, and other persons or groups.

(iv) Understanding the roles and organizational structures of regular and special education and the part they play in providing total service for the student.

(v) Ability to serve in a consultative capacity with individuals and groups, including parents and students.

(vi) Ability to supervise and work with teacher aides, volunteers and paraprofessionals.

(e) Organizational, historical, and legal factors as follows:

(i) Knowledge of state and federal laws, rules, and regulations.

(ii) Understanding of due process and data privacy requirements.

(iii) Knowledge of historical and philosophical background of the education of handicapped persons and knowledge of attitudes toward handicapped persons.

(iv) Understanding of how to identify and access resources relevant to handicapped persons.

(f) Abilities basic to all special education preparation as follows:

(i) Ability to observe, analyze, and describe the instructional strategies being applied in an educational situation.

(ii) Ability to function as a member of a team in designing appropriate educational programs for handicapped students.

(iii) Ability to apply team-designed strategies in an educational setting.

(iv) Ability to design and apply instructional strategies in an educational setting, including time management techniques.

(v) Ability to identify and use nonschool resources relevant to handicapped persons.

(vi) Ability to assess results of instruction.

(vii) Understanding of personal adjustment, prevocational and vocational needs, and opportunity for the handicapped.

(viii) Ability to understand basic behavioral management concepts and demonstrate ability to develop, implement, and incorporate appropriate behavioral management techniques.

(ix) Understanding of preadolescent behavior.

(x) Understanding of adolescent behavior.

(2) Students completing special education teacher preparation training programs before September 1, 1990, shall be fully approved.

R 340.1782 Fully approved teachers of the handicapped; additional requirements.

Rule 82 A fully approved teacher of the disabled, in addition to meeting the specific requirements set forth in R 340.1785 to R 340.1791, R 340.1795 to R 340.1797, and R 340.1799 to R 340.1799e, shall comply with all of the following requirements:

(a) Possess a valid Michigan teacher's certificate.

(b) Possess a baccalaureate degree with a major in a specific special education area or have earned credit in course work equivalent to that required for a major.

(c) Possess an endorsement in special education that is valid in grades kindergarten through 12. Elementary or secondary endorsements in special education, earned before or after September 1, 1990, shall be valid in grades kindergarten through 12.

(d) Have completed directed student teaching of not less than 8 weeks' duration in the specific area of impairment. Not less than a 180-hour practicum in the specific area of impairment is required for each additional endorsement. Teachers who receive their approval pursuant to this rule after September 1, 1990, shall have completed directed student teaching of not less than 8 weeks' duration or an equivalent educational experience before being assigned to a classroom program for severely mentally impaired or the severely multiply impaired.

(e) Be recommended for a certificate or endorsement, or both, constituting full approval in a specific special education area by an institution of higher education signifying verification of completion of a teacher education program for the specific special education area, as approved by the state board of education. The recommendation shall verify that the teacher possesses all of the following in addition to having completed course work that includes the general skill requirements listed in R 340.1781:

(i) Personal maturity.

(ii) Emotional stability.

(iii) Ability to teach.

(iv) Other leadership capacities.

(v) Apparent potential for growth in creative teaching.

(f) Approved teacher education programs of each teacher training institution shall be reviewed at least once every 5 years by the department.

(g) On the effective date of these rules, persons approved as special education teachers pursuant to this rule, teacher consultants pursuant to R 340.1790, curriculum resource consultants pursuant to R 340.1791, teachers of preprimary-aged students pursuant to R 340.1795, and work-study coordinators pursuant to R 340.1792 shall maintain and continue to have their full approval status.

R 340.1783 Temporarily approved teachers of the handicapped.

Rule 83.(1) The department may grant temporary approval as a teacher of the handicapped to persons who, at a minimum, have completed 1/2 of the course requirements for a major in a specific impairment area. Continuation of temporary approval shall be dependent upon the satisfactory completion of not less than 6 semester or 9 term hours, or equivalent, of required credit toward full approval before the beginning of the next school year that the teacher is employed in a special education area.

(2) Special education teachers who would otherwise be laid off as a result of the application of R 340.1733(q) shall, if eligible, be granted temporary approval pursuant to this rule. Such teachers, if not eligible for temporary approval, shall be granted emergency approval on such terms and conditions as established by the state board, which may include the completion of continuing education units or experience. The availability of a fully approved teacher for the position shall not be a basis to deny, revoke, or fail to renew the teacher's temporary or emergency approval if the teacher remains in the special education program. This subrule shall not apply to teachers certified after December 30, 1990.

R 340.1784 Special education intern teachers; approval.

Rule 84. The department may grant temporary approval to teachers who are currently enrolled in a university intern program approved by the state board of education with special emphasis on an internship experience, which is under the provisions of a university teacher preparation program approved by the state board of education. Special education teachers with full approval and with not less than 3 years of experience in teaching handicapped persons shall be employed to consult with intern teachers at least the equivalent of 1 full school day each week.

R 340.1785 Special education areas to which approvals apply.

Rule 85. R 340.1781 through R 340.1784 apply to teachers in the following specific education areas:

(a) Autistic impaired.
(b) Mentally impaired.
(c) Emotionally impaired.
(d) Learning disabled.
(e) Hearing impaired.
(f) Visually impaired.
(g) Physically and otherwise health impaired, inclusive of homebound and hospitalized.
(h) Preprimary impaired.
(i) Speech and language impaired.

R 340.1786 Teachers of the mentally impaired; special requirements.

Rule 86.(1) The teacher education program for teachers of the mentally impaired shall include a minimum of 30 semester hours. In addition to the requirements of R 340.1781, the teacher education program for teachers of students with mental impairments shall include all of the following:

(a) A minimum of 12 semester hours of special skills and knowledge necessary for working with mentally impaired students, including all of the following:

(i) The nature of mental deficiency.
(ii) Differential curriculum development and teaching techniques.
(iii) Basic components of language development.
(iv) The basic sensori-neural system and its relationship to learning and development.
(v) Classroom management techniques.

(b) A minimum addition of 10 semester hours in the development of competency in the following areas:

(i) Ability to observe and assess students, including all of the following:
(A) The nature of mental deficiency.
(B) Differential curriculum.
(C) Development and teaching techniques.
(D) Basic components of language development.
(E) The basic sensori-neural system and its relationship to learning and development.
(F) Classroom management techniques.

(ii) Ability to provide instruction and guidance to mentally impaired students in all of the following areas:
(A) Self-help skills.
(B) Prevocational and vocational skill training.
(C) Recreation and leisure activities.

(iii) Ability to understand physical, sensory, and health related problems and their impact on learning and development, including the understanding and appropriate use of medical information.

(iv) Ability to guide and counsel mentally impaired students regarding all of the following:
(A) Human sexuality.
(B) Home, family, and community living.
(C) Use of local, state, and national resources.

(v) Ability to understand and utilize basic behavioral management concepts and techniques to meet the unique needs of the mentally impaired individual.

(vi) Ability to organize and manage an educational environment and schedule for a group of mentally

impaired students, including the understanding of the functions and role of the teacher as educational team leader and the role and function of related services personnel and aides.

(vii) Ability to instruct and reinforce a program of communication skills and techniques, both verbal and nonverbal, as deemed appropriate for the student.

(viii) Ability to utilize community resources and a variety of community settings and activities in the planning and implementation of an educational program for mentally impaired students.

(c) Directed student teaching with mentally impaired students pursuant to R 340.1782(c).

(2) A teacher assigned as a lead teacher of the trainable mentally impaired shall comply with all of the following requirements:

(a) Meet certification and full approval requirements for teaching the mentally impaired, as required in R 340.1782.

(b) Have completed 2 years of successful teaching experience with the trainable mentally impaired.

(c) Be recommended by an administrator who has supervised the teachers professional activities with trainable mentally impaired persons for at least 1 year.

(d) Have demonstrated ability to work cooperatively and creatively with other professional and nonprofessional staff members.

R 340.1787 Teachers of the emotionally impaired; special requirements.

Rule 87. The teacher education program for teachers of the emotionally impaired shall include 30 semester hours in the following areas:

(a) Four to 6 semester hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent psychology, learning theory and psychological information, both individual and group.

(b) Four to 6 semester hours of environmental information, including sociological, cultural, economic information; special services and guidance programs in the school and community; organization of the school; characteristics of groups; and social organization and structure.

(c) Six to 10 semester hours of educational and special methods, including education of children with special problems, theory and methods of teaching socially handicapped and emotionally impaired persons, reading methods, instructional materials, and creative and other activities especially adapted to the education of persons with psychological and physiological learning difficulties.

(d) Six to 12 semester hours of special skills and techniques in understanding personality deviation, including abnormal psychology, theory of maladjustment, counseling and interview techniques, interpretation of psychological data, and work in parent counseling.

(e) A minimum of 4 semester hours of credit in directed teaching with emotionally impaired persons in addition to the 30 semester hours required for a major.

(f) Six to 10 semester hours of application and experience, including supervised observation, with the emotionally impaired, a practicum in a psychiatric setting, a seminar in interdisciplinary approach, group dynamics, and interpretation of psychiatric techniques.

(g) Two to 4 semester hours in evaluation and research methods.

R 340.1788 Teachers of learning disabled; special requirements.

Rule 88. The teacher education program for teachers of the learning disabled shall include a minimum of 28 semester hours relating to the following areas:

(a) Four semester hours of child growth and learning theory, including dynamics of human behavior, individual differences, adolescent or child psychology, learning theory and psychological information.

(b) Six semester hours of special skills and techniques in understanding learning problems, including development of language as it relates to reasoning, thinking, speaking, reading, writing and spelling; remediation techniques for auditory and visual discrimination problems; development of perceptual skills; and understanding the dynamics of student-teacher relationships, environment, and program planning.

(c) Six semester hours in the development of competence in the following areas:

(i) Ability to carry out suitable procedures for assessment of the student's listening, thinking, talking, reading, spelling, writing, arithmetic, or other skill deficiencies.

(ii) Ability to specify in behavioral terms instructional objectives which are appropriate to the skill needs and entry level characteristics of the individual student.

(iii) Ability to select systems of instruction and learning conditions which are likely to be most effective for ameliorating the learning disabilities presented by each student.

(iv) Ability to set up and maintain conditions and procedures of instruction suitable to the learning goals set for the individual student.

(v) Ability to assess instructional outcomes in terms of the student's behavior change and use this data in formulation of an ongoing instructional plan adjusted to changed student conditions.

(vi) Ability to use appropriate techniques with the student to help develop the self-management skills required for constructive social participation and independent learning.

(vii) Ability to function as a member of interdisciplinary teams and maintain effective liaison with parents and others working with the student.

(d) Four semester hours practicum with learning disabled students.

R 340.1790 Teacher consultants for handicapped persons; approval.

Rule 90. In addition to meeting all of the requirements of R 340.1782, a teacher consultant shall meet all of the following requirements for full approval by the state board of education or its designee:

(a) Possess a master's degree in education or a field of study related to special education.

(b) Recommendation to the department, by letter, by the employing superintendent, or his or her designee, for approval as a teacher consultant. In requesting approval, the superintendent or designee shall provide satisfactory evidence that the teacher has demonstrated knowledge and competence in all of the following areas:

(i) Interpersonal relations.

(ii) Consultation skills.

(iii) Specialized instructional methods.

(iv) Effective time and classroom management techniques.

(v) Educational diagnostic techniques.

(vi) Problem solving/conflict resolution techniques.

(vii) Team planning and implementation processes.

(viii) Organizational theory and group dynamics.

(c) Show evidence of a minimum of 3 years of satisfactory teaching experience, not less than 2 years of which shall be in teaching handicapped persons in a special education classroom.

R 340.1791 Curriculum resource consultant; approval.

Rule 91. A curriculum resource consultant employed in a special education program, in addition to meeting the specific requirements set forth in R 340.1782 and R 340.1790, shall, for approval by the state board of education or its designee, have completed 12 semester hours of credit, or a department-determined equivalent, in an educational program which insures competency in all of the following areas:

(a) Curriculum development and planning.

(b) Instructional materials and media, including computer-assisted technology.

(c) Inservice education, including needs assessment techniques.

(d) Acquisition, categorization, evaluation, and distribution of materials.

(e) Adaptive technology.

R 340.1792 Licensure, certification, or approval of supportive professional personnel.

Rule 92. Supportive professional personnel employed or contracted with to provide supportive services to handicapped persons shall be licensed, certificated, or registered by a governmental agency as a condition of practicing their profession, certified by a legally recognized professional board or association as an indication of adequate preparation and training, or recommended by a college or university offering an appropriate training program as approved by the state board of education.

R 340.1793 Paraprofessional personnel; qualifications.

Rule 93.(1) Paraprofessional personnel employed in special education programs shall be qualified pursuant to requirements established by their respective intermediate school district plan. Paraprofessional personnel include, but are not limited to teacher aides, health care aides, bilingual aides, instructional aides, and program assistants in programs for severely mentally and severely multiply impaired.

(2) An interpreter for the deaf shall be any of the following:

(a)1A certified interpreter as defined in Act No. 204 of the Public Acts of 1982, being §393.501 et seq. of the Michigan Compiled Laws, and known as the deaf persons' interpreters act.

(b) A qualified interpreter as defined in Act No. 204 of the Public Acts of 1982, being §393.501 et seq. of the Michigan Compiled Laws, and known as the deaf persons' interpreters act who has been approved at quality assurance level II or III.

(c) A high school graduate, or equivalent, with advanced training in a community college or degree-granting institution whose training program has been approved by the department.

R 340.1794 Instructional aides; qualifications.

Rule 94. An instructional aide employed in programs for the severely multiply impaired, the severely mentally impaired and the trainable mentally impaired shall meet either of the following qualifications:

(a) Be a high school graduate, or equivalent, with a minimum of 2 years of successful experience as an aide in a day care training program or a trainable classroom, or equivalent experience, and be recommended by an administrator who has supervised the work of the aide for at least 1 year.

(b) Be a high school graduate, or equivalent, with advance training in a community college or degree-granting institution whose special education instructional aide training program has been approved by the department.

R 340.1795 Teachers of the preprimary age impaired; special requirements.

Rule 95.(1) A fully approved teacher of preprimary age students, in addition to meeting the specific requirements set forth in R 340.1782, shall possess either of the following:

(a) A major or minor in early childhood education or child growth and development, as recommended by an approved university.

(b) The early childhood endorsement on the teaching certificate.

(2) Certified staff who have been assigned to a program for preprimary age children pursuant to R 340.1738 to R 340.1744, R 340.1747 and R 340.1748, R 340.1756, and R 340.1758 within 3 years prior to the time this rule became effective shall have full approval.

R 340.1796 Teachers of the speech and language impaired; special requirements.

Rule 96.(1) A teacher of the speech and language impaired shall meet all of the following requirements:

(a) An earned master's degree in speech and language pathology.

(b) A minimum of 60 semester hours of academic credit in normal aspects of human communication, development thereof, and clinical techniques for evaluation and management of speech and language disorders distributed as follows:

(i) A minimum of 12 semester hours in courses pertaining to normal development of speech, language, and hearing.

(ii) A minimum of 30 semester hours in courses on communication disorders and evaluation and management of speech, language, and hearing disorders. Of these 30 semester hours, 24 hours shall be in speech and language pathology and 6 shall be in audiology. Not more than 6 of the 30 semester hours may be earned for clinical practicum.

(iii) A minimum of 30 semester hours that are acceptable on a graduate level, of which 21 hours shall be within the group specified under paragraph (ii) of this subdivision.

(c) A minimum of 300 clock hours of supervised practicum experience with persons who present a variety of communication disorders, to be acquired in conjunction with academic training, 150 hours of which shall be obtained on the graduate level.

(2) The state board of education or its designee shall approve as a teacher of the speech and language impaired a person employed or approved as a teacher of the speech and language impaired before the effective date of these rules.

(3) A teacher of the speech and language impaired serving the severely language impaired in a classroom program, as defined in R 340.1756, shall be certified at the elementary level.

R 340.1797 Teachers of physical education for handicapped individuals; approval.

Rule 97. A teacher of physical education for handicapped individuals shall possess a valid Michigan teaching certificate with approval in physical education, special education, or both, and shall complete all the following:

(a) A minimum of 9 semester hours or 12 term hours in special education courses leading to the acquisition of all of the following competencies:

(i) Knowledge of the causes of various handicapping conditions and the effects of those conditions on learning.

(ii) Ability to assess physical education skills of individuals exhibiting various handicapping conditions.

(iii) Knowledge of special education teaching models which employ assessment-prescriptive techniques.

(iv) Ability to use community and staff resources within the special education environment.

(b) A minimum of 9 semester hours or 12 term hours in special physical education courses leading to the acquisition of all of the following competencies:

(i) Ability to write in behavioral terms and assess instructional objectives for physical education for the handicapped.

(ii) Knowledge of motor characteristics, behaviors, and development sequences associated with various handicapping conditions in relationship to normal motor development.

(iii) Knowledge of anatomy, kinesiology, and neurology which pertains to normal and abnormal motor control and sensory motor integration for teaching physical education to severely handicapped and nonambulatory students.

(iv) Ability to adapt teaching methods, materials, and techniques for physical and motor fitness, gymnasium use, fundamental motor skills, aquatic skills, dance, individual and group games, and lifetime sports skills for the needs of the handicapped.

(v) Ability to analyze, adapt, and implement physical education curriculum in providing appropriate programs for a variety of handicapping conditions.

(c) A directed field experience in teaching physical education with handicapped persons in a school setting.

R 340.1798 Teachers of physical education for handicapped individuals; role.

Rule 98. A special education reimbursed teacher of physical education shall provide instruction in physical education to special education students whose disability precludes integration into regular physical education classes. Teachers of physical education for handicapped individuals may provide supportive service to regular physical education teachers who have handicapped students integrated into their programs and to special education classroom teachers who are delivering physical education services.

R 340.1799 Teachers of the autistic; special requirements.

Rule 99.(1) Full approval as a teacher of the autistic shall be granted to a person who meets both of the following requirements:

(a) Successfully completes all requirements for temporary approval as a teacher of the autistic.

(b) Possesses 1 year of successful experience in an approved program for autistic persons.

(2) Temporary approval as a teacher of the autistic shall be granted to a person who meets both of the following requirements: (a) Has full approval in 1 other area of special education as specified in R 340.1782.

(b) Is recommended by a college or university approved by the state board of education as having demonstrated knowledge and competency in all of the following areas:

(i) Syndrome of autism, including its etiology.

(ii) Child development, with special emphasis on language, communication, and cognitive development.

(iii) Behavioral management techniques.

(iv) Systematic curriculum development, with special emphasis on personal adjustment and prevocational

education.

(v) Home/school interactions.

(vi) Family and community support services.

(vii) Four-semester-hour practicum, or equivalent, with autistic persons.

(3) A teacher currently employed in a program specifically designed for autistic students, as authorized in the intermediate school district plan, shall be granted full approval on the date this rule takes effect. Verification by the district's superintendent or the program supervisor of the autistic impaired program that the teacher has demonstrated knowledge and competency in the areas listed in subrule (2) of this rule shall be submitted to the department.

R 340.1799a Teachers of physically and otherwise health impaired; special requirements.

Rule 99a. The teacher education program for teachers of the physically and otherwise health impaired shall include a minimum of 30 semester hours. In addition to the requirements of R 340.1781, the teacher education program for teachers of students with physically and otherwise health impairments shall include all of the following:

(a) A minimum of 12 semester hours of special skills and techniques for working with physically and otherwise health impaired students, including all of the following:

(i) Medical aspects of temporary and permanent physical disabilities of a wide variety.

(ii) Impact of neurological impairments and mental retardation on learning.

(iii) Equipment and techniques of physical management of physically and otherwise health impaired students.

(iv) Methods and materials for training, observation, and assessment of physically and otherwise health impaired students, including techniques for nonvocal communication.

(b) A minimum of 10 semester hours in the development of competence in the following areas:

(i) Ability to work as a member of a multidisciplinary team which includes medical and paramedical personnel and to supervise paraprofessional personnel.

(ii) Ability to develop and implement an instructional plan for students, including those confined to home or a hospital.

(iii) Ability to explain the condition of the student and the condition's impact on learning and to serve as a resource person for physically and otherwise health impaired students within regular and special education classes.

(iv) Ability to counsel students regarding all of the following:

(A) Human sexuality.

(B) Home, family, and community living.

(C) Career selection.

(D) The use of local, state, and national resources.

(v) Ability to develop, implement, and reinforce special instruction in all of the following life skill areas:

(A) Self-help skills.

(B) Recreation and leisure time activities.

(C) Community transportation and mobility.

(D) Recruitment.

(E) Use of personal aids.

(vi) Ability to understand the role and function of related service personnel and to work in conjunction with them in the development and implementation of special instructional programs or techniques necessary to a physically and otherwise health impaired individual.

(vii) Ability to observe and assess students with physical and other health impairments through the use of formal and informal tools and techniques.

(viii) Ability to work intensively and extensively with parents of students, both as a home instructor for infants and their parents and as a liaison between the educational agencies and the home.

(c) Directed student teaching with physically and otherwise health impaired students pursuant to R 340.1782(c).

R 340.1799b Teachers of the visually impaired; special requirements.

Rule 99b. In addition to the requirements listed in R 340.1781, the teacher education program for teachers of the visually impaired shall include a minimum of 30 semester hours relating to the following areas:

(a) Twelve semester hours of special skills and techniques for working with the visually impaired, including all of the following:

(i) Beginning and advanced braille.

(ii) Methods of teaching the blind and partially sighted.

(iii) Special equipment and its use for the visually impaired.

(b) Ten semester hours in the development of competence in the following areas:

(i) Ability to work as a member of a multidisciplinary team which includes medical and technical personnel.

(ii) Ability to develop and implement a curriculum and an instructional program for a range of visually impaired students.

(iii) Ability to implement and support a program of communication skills and techniques and to implement and support a program of orientation and mobility skills as deemed appropriate for the student.

(iv) Ability to explain the structure and function of the eye and the impact of vision impairment on learning and to serve as a resource person and consultant for visually impaired students in regular and special education classes.

(v) Ability to instruct visually impaired students regarding all of the following:

(A) Human sexuality.

(B) Home, family, and community living.

(C) Career selection.

(D) The use of local, state, and national resources.

(vi) Ability to develop and implement special instruction in the following life skill areas:

(A) Self-help skills.

(B) Recreation and leisure time activities.

(C) Community transportation and mobility.

(D) Recruitment.

(E) Use of personal aids.

(vii) Ability to work intensively and extensively with parents of visually impaired students, both as a home instructor for parents and as a liaison between the educational agencies and the home.

(c) Directed student teaching with visually impaired students pursuant to R 340.1782(c).

R 340.1799c Teachers of hearing impaired; special requirements.

Rule 99c.(1) The teacher education program for teachers of the hearing impaired shall include a minimum of 30

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semester hours. In addition to the requirements listed in R 340.1781, the teacher education program for teachers of the hearing impaired shall meet the council on education of the deaf standards or shall, at a minimum, include 30 semester hours relating to the following areas:

(a) Language and linguistics.

(b) Audiology and speech science.

(c) Psychology.

(d) Education.

(2) Students shall complete a program that is designed to develop the following competencies:

(a) Knowledge of linguistics, theories of language development, and the various special methods used to assess and develop language competence.

(b) Ability to utilize an individual diagnostic profile of the student's expressive and receptive language skills.

(c) Ability to integrate language development with the teaching of English, mathematics, social studies, science, and other academics.

(d) Ability to use various and combined modes, manual and oral, in both expressive and receptive communication with hearing impaired students.

(e) Knowledge of the anatomy, physiology, and pathology of the organs of speech and hearing.

(f) Knowledge of audiological assessment information and its application to the individualized education program of a hearing impaired student.

(g) Knowledge of personal and group amplification systems, including their basic maintenance.

(h) Ability to incorporate and teach appropriate procedure to maximize the use of speech, speech reading, and auditory skills.

(i) Ability to use systematic observational techniques for establishing baseline data, evaluating problem areas, and for documenting and assessing progress.

(j) Knowledge of the psychological and sociological impact of severe/profound hearing impairment, including information about the adult deaf community/deaf culture.

(k) Ability to identify and use local, state, and national resources in support of hearing impaired students, their parents, and their educational program.

(l) Ability to orient parents, regular school staff, and administrators to the unique needs and learning styles of the hearing impaired students.

(m) Ability to assess communication, academic, and social/emotional development of hearing impaired students.

(n) Ability to relate diagnostic information in functional terms to parents and support service specialists.

(o) Ability to design and implement an educational program appropriate to the individual student's communication, academic, prevocational, and social needs.

(p) Ability to modify and adapt procedures for teaching reading, math, and other academic subjects to hearing impaired students.

(3) Before assignment to directed student teaching, each student shall spend a minimum of 60 clock hours in programs utilizing various communication modes, both manual and oral.

(4) Students shall complete directed student teaching with hearing impaired students pursuant to R 340.1782(c).

R 340.1799d Work-study coordinators; approval.

Rule 99d. The work-study coordinator shall meet all of the following requirements for full approval by the state board of education or its designee:

(a) Full approval as a teacher in 1 or more areas of special education.

(b) A minimum of 3 years of satisfactory teacher experience in special education, with at least 1 year of teaching in a special education classroom at the secondary level.

(c) Recommendation to the department by a university or employing superintendent that the teacher has the following competencies as documented by course work, inservice training, or work experience:

(i) Knowledge of the effects of physical and mental impairment on the individual's learning and work potential.

(ii) A broad range of occupational information, including the ability to use the dictionary of occupational titles to relate specific skills and abilities to job titles.

(iii) Sufficient knowledge of the free enterprise system and business management to answer basic questions about the legal and economic impact of the work-study program.

(iv) The ability to interpret wage and hour, child labor, workers' compensation, and school laws to students and employers.

(v) The ability to do task analysis to identify prerequisite skills needed by the student before entry into the work station.

(vi) Ability to analyze performance problems needed to help students who are not meeting employer expectations.

(vii) Ability to write educational objectives in measurable terms for specific job tasks.

(viii) Knowledge of the role and function of all of the following:

(A) The county department of social service.

(B) Michigan employment security commission.

(C) Michigan rehabilitation services.

(D) Other agencies that may provide supportive services to handicapped persons.

(ix) Knowledge of survey research techniques used to identify community employment needs.

(x) Knowledge of skills taught in vocational education programs and the ability to relate vocational competencies to an employer's personal needs.

PART 6.
FINANCING

R 340.1801 Source of funds.

Rule 101. Funds for operating and housing special education programs and services operated by intermediate and constituent school districts shall be derived from federal appropriations: general and categorical appropriations in Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws, and known as the state school aid act of 1979; local general and specific property taxes, gifts, grants, bequests; and tuition payments from a school district sending handicapped persons to another school district.

R 340.1802 Use of funds.

Rule 102. Funds available to intermediate and constituent school districts, as provided in R 340.1801, may be used for the employment of teachers and other personnel; transportation of handicapped persons; the purchase and maintenance of equipment and supplies; the lease, purchase, construction, renovation or acquisition of vehicles, sites, buildings or portions thereof, and equipment as deemed necessary for staff, programs, and services operated pursuant to the intermediate district plans as approved by the state board of education and other provisions of law.

R 340.1803 Building or purchasing facilities.

Rule 103. When facilities are purchased, constructed, or renovated, with funds acquired through sections 1722 to 1729 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1722 to 380.1729 of the Michigan Compiled Laws, for constituent districts, funds shall be used for contractual purposes which provide that the constituent district shall make that facility available for special education programs and services for a period of 25 years. Disbursement of such funds shall be made by the intermediate district board of education pursuant to the intermediate district plan.

R 340.1805 Allowance for room, board, and transportation.

Rule 105. Room, board, and transportation costs for special education programs and services contracted for by the school district of residence shall be paid by that school district pursuant to the intermediate district plan. Parents of persons served shall not be responsible for the cost of room, board, and transportation.

R 340.1806 Local school district contribution.

Rule 106. The contribution to be made by the resident school district, if a basic education program for persons is operated by another party to the contract under the provisions of section 1751 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1751 of the Michigan Compiled Laws, shall be the total cost of the education program for each person minus the gross state aid membership allowance, categorical aid, and the intermediate school district reimbursement for each person.

R 340.1808 Reporting costs.

Rule 108. An intermediate school district establishing a program by contract with local school districts or operating a program under these rules shall submit to the superintendent of public instruction, at the close of the fiscal year, an itemized report of the actual cost of operating the program, including the cost of transportation, on forms provided for that purpose. Reported actual costs for purposes of reimbursement shall include only those which are reasonable and appropriate as determined by the superintendent of public instruction.

R 340.1809 State aid to operating school districts.

Rule 109. The intermediate district and its local districts shall be entitled to receive reimbursement for special education programs and services that are in compliance with these rules and in accordance with the intermediate school district plan as approved by the state board of education and as prescribed in Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.

R 340.1810 Reimbursement of special education transportation.

Rule 110. Specialized transportation or additional transportation, or both, as required in the individualized education program for a handicapped person to receive a free appropriate public education in the least restrictive educational environment, shall be reimbursable as authorized by Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws and known as the state school aid act of 1979.

R 340.1811 Distribution of intermediate millage to constituent districts.

Rule 111.(1) Only those constituent district programs and services under a state board-approved, intermediate school district special education plan and approved for reimbursement by the department shall be eligible for reimbursement from funds generated by adoption of millage under sections 1723 and 1724 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1723 and 380.1724 of the Michigan Compiled Laws.

(2) Determination of constituent district special education program and service costs shall be based solely upon costs as reported and allowed by the department which are in compliance with these rules. Costs of required transportation shall be included.

(3) All operational reimbursement claims shall be based upon the added cost system. Claims shall be calculated by subtracting from total special education program or service costs all state and federal reimbursements, including the gross state aid membership allowance and categorical aid. The net unreimbursed costs shall constitute the operational cost claim against intermediate school district special education tax funds.

(4) When intermediate school district special education tax funds are insufficient to reimburse constituent claims in full, a like percentage of the claim shall be paid for support of each program and service to each constituent district. Claims for operation of special education programs and services available to all constituent districts may be reimbursed in full before any prorated payment which may become necessary for other programs and services.

(5) Current intermediate school district special education tax funds need not be used to offset operational claim deficits from prior years.

(6) Amounts may be retained by the intermediate school district for required cash flow purposes not to exceed 1 year's operational expenses for the purpose of maintaining special education programs and services operated by the intermediate school district.

(7) Intermediate school districts desiring to distribute funds in a manner other than as set forth in subrules (2) to (4) of this rule and R 340.1812 shall submit the desired method and the reasons therefore for approval as part of the intermediate school district plan required under section 1711 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1711 of the Michigan Compiled Laws.

R 340.1812 Intermediate school district's use of special education millage.

Rule 112.(1) Costs for the operation of special education programs and services by the intermediate school district, available to all constituent districts, may be reimbursed in full before the reimbursement of local districts from funds generated by adoption of millage under sections 1723 and 1724 of Act No. 451 of the Public Acts of 1976, as amended, being §§380.1723 and 380.1724 of the Michigan Compiled Laws.

(2) When intermediate school district special education personnel offer direct services to handicapped persons in some but not all constituent districts, and when prorated payment of constituent district operational claims is necessary, the per capita deficit for each student served shall be paid by the district of residence or a direct charge shall be made to the local district based on the amount of deficit and the proportion of time the local district received the service from the intermediate district.

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PART 7.
DEVELOPMENT AND SUBMISSION OF INTERMEDIATE SCHOOL DISTRICTS' PLAN

R 340.1831 Plan and modification submission.

Rule 131.(1) On or before July 1 of 1986, on a cycle determined by the department, each intermediate school district board shall submit its 3-year plan to the state board of education or its designee to become effective on July 1 of the following year.

(2) Any intervening modification by the intermediate school district plan shall be directed to each local school district superintendent and chairperson of the parent advisory committee within 7 calendar days of the intermediate school district board approval of this modification.

R 340.1832 Content areas.

Rule 132. An intermediate school district plan for the delivery of special education programs and services, or any modification thereof, shall be an operational plan that sets forth those special education programs and services to be delivered during the school year for which the plan was written. The plan may also include any long-range plans for delivery of special education programs and services in future years. The plan shall comply with Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws, and these rules and shall comply with the following format and include, at a minimum, the following content areas:

INTERMEDIATE SCHOOL DISTRICT PLANS

Part 1. Comprehensive special education programs and services.

Section 1.1. Procedural safeguards.

Describe any procedural safeguards required by the intermediate school district that are necessary to accomplish the following:

(1) Insure confidentiality and the protection of records.

(2) Provide parent notice and secure written consent before preplacement evaluation or placement of a handicapped student.

(3) Advise and inform handicapped persons, their parents, and other members of the community of the special education opportunities required under the law; the obligations of the local and intermediate school district; and the title, address, and telephone number of representatives of both the local and intermediate school districts who can provide information about the special education opportunities.

(4) Inform parents of their right to obtain an independent educational evaluation and due process hearing.

(5) Advise parents of the complaint process.

Section 1.2. Public awareness.

Describe activities and outreach methods which are used to insure that all citizens are aware of the availability of special education programs and services.

Section 1.3. Referral system.

Describe any procedures required by the intermediate school district for processing and reporting referrals for persons up to 25 years of age who are known to be, or suspected of being, handicapped.

Section 1.4. Diagnostic services.

Describe the type and amount of diagnostic services that are directly operated within the intermediate school district and those purchased or contracted for from outside the intermediate school district.

Section 1.5. Individualized educational planning committee procedure.

(1) Describe the procedure for including eligible students on the intermediate central registry.

(2) Describe any procedures required by the intermediate school district for both of the following:

(a) Determining eligibility, programs, and placement of handicapped students.

(b) Conducting and administering the individualized educational planning committee meeting.

Section 1.6. Continuum of special education programs and services.

(1) Describe the special education basic programs and supportive services, including vocational training programs designed to meet the educational needs of handicapped persons.

(2) Describe any additional programs or services, including summer school programs, work activity centers, specialized programs, nursing homes, state hospitals, and mental health, correctional, and child care facilities.

(3) List the constituent districts that have been approved to graduate handicapped persons who are so impaired that they cannot complete the regular education program.

Section 1.7. Community integration and follow-up.

(1) Describe the procedure used to assure integration of each handicapped person into the school and the community environment.

(2) Describe the means by which the local school district and the intermediate school district shall determine the effectiveness of special education programs and services and the educational plan for each handicapped person.

(3) Describe the procedure used to utilize the information gained from the 1 year follow-up to modify the delivery of special education programs and services. The follow-up system shall include a procedure used for determining the school-community adjustments of handicapped persons for at least 1 year following termination of their special education programs and services.

Part 2. Management of special education programs and services.

Section 2.1. Administration of programs and services.

(1) Identify the full-or part-time district administrator who, by position, is responsible for the implementation of special education programs and services.

(2) Describe any administrative procedure required by the intermediate school district for requesting deviations, processing objections to the intermediate school district plan, and investigating complaints.

Section 2.2. Qualified personnel.

(1) Estimate the type of professional and paraprofessional personnel needed to provide the special education programs and services described in section 1.6.

(2) Describe the procedures required by the intermediate school district for determining the professional development needs of special education and general education staff and the plans for meeting these needs.

Section 2.3. Facilities and transportation.

Describe the type of facilities and the transportation necessary to provide the special education programs and services described in section 1.6.

Section 2.4. Instructional content.

(1) Describe procedures to be used by the intermediate district for approval of instructional content of special education programs and services.

(2) The instructional content shall, at a minimum, include personal adjustment, prevocational and vocational training, and physical education.

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Section 2.5. Monitoring and evaluation.

Describe the method, timetable, and criteria for monitoring and evaluating state institutions and public school special education programs and services within the intermediate district.

Section 2.6. Federal funds.

Describe for each anticipated grant or entitlement of federal monies the source of the funds, the anticipated manner in which it shall be utilized, and the process of how such funds shall be distributed to, or on behalf of, local school districts. Such description shall specifically include rationale for the distribution of funds based on the special education program and service needs within the intermediate school district.

Part 3. Parent advisory committee.

Section 3.1. Organizational structure of the parent advisory committee.

Describe the organizational structure of the committee, including officers and their responsibilities, meeting times, notice thereof, voting procedures, terms of office, and related matters.

Section 3.2. Role and responsibility of the parent advisory committee.

(1) Describe the role and responsibility of the committee, including how it shall participate in the cooperative development of the plan, formulate objections thereto, if any, and related matters, such as the role and responsibility of the parent advisory committee in evaluating special education programs and services within the intermediate district.

(2) Describe the role and relationship of administrative and other school personnel, as well as representatives of other agencies, in assisting the committee in its responsibilities.

Section 3.3. Administrative support of the parent advisory committee.

Describe the fiscal and staff resources that shall be secured or allocated to the committee by the intermediate school district to make it efficient and effective in operation.

R 340.1833 Cooperative development and review.

Rule 133.(1) Intermediate school district plans, or any modification thereof, shall be developed in cooperation with local school districts and the parent advisory committee.

(2) All plans shall be reviewed with the representatives of each local school district and the parent advisory committee, in whole or in part, at least quarterly each fiscal year.

R 340.1834 Joint plans.

Rule 134. Two or more intermediate school districts lying within an educational planning area as designated by the state board of education may submit a plan for the delivery of special education programs and services upon approval by the state board of education.

R 340.1835 Plan signatures.

Rule 135. Each intermediate school district plan, or modification thereof, shall be signed by all of the following:

(a) The intermediate school district superintendent, signifying approval by the intermediate school district board.

(b) The superintendent of each constituent school district, signifying district involvement in the development of the plan.

(c) The chairperson of the parent advisory committee, signifying committee involvement in the development of

the plan.

R 340.1836 Objections to plan; procedures.

Rule 136.(1) At the time the intermediate school district plan, or modification thereof, is submitted to the state board of education or its designee, any constituent local school district or the parent advisory committee may file objections to the plan in whole or in part within 20 calendar days of receipt of a copy of the plan pursuant to R 340.1831. Copies of the objections to the plan shall be directed by the intermediate board of education to all constituent local school districts and the parent advisory committee by certified mail, return receipt requested.

(2) Objections filed shall specify the portions of the plan objected to, contain a specific statement of the reasons for objection, and shall propose alternative provisions.

(3) The intermediate school district, a constituent local school district, or the parent advisory committee may file with the department a response to the objections on or before 20 calendar days from the date of receipt of the objections.

(4) The intermediate school district or the objecting party shall have 7 calendar days from the date of receipt of the objections to direct to the department a written request for a hearing concerning the objections. If no request for hearing is made, the department may provide technical assistance to the involved parties or the state board of education may rule upon the plan based upon the objections and any answers or responses filed thereto. If a hearing is requested, a hearing officer designated by the department of education shall promptly give reasonable notice of the hearing and shall begin the hearing not later than 30 calendar days from the date the request was filed with the department. The hearing may be adjourned upon written stipulation of the intermediate school district and the objecting party.

(5) Within 15 calendar days after the closing of the hearing, the hearing officer shall make findings of fact and conclusions of law and shall recommend to the state board of education whether the plan should be approved as submitted, approved with such other modifications as deemed appropriate by the hearing officer, or the objections granted as submitted. Such findings and recommendations shall be immediately served upon the department and all parties answering or responding to the objections. Any party may file written exceptions to such findings and recommendations with the state board of education within 20 calendar days of receipt of the findings and recommendations and direct copies of the exceptions to all other parties and the department. Oral argument regarding such exceptions may be permitted with the consent of the state board of education. The findings and recommendations of the hearing officer, including any exceptions, shall be submitted to the state board of education with the plan. The state board of education shall render a final decision within 30 calendar days from the date the exceptions were to be filed.

R 340.1837 Approval of plans.

Rule 137.(1) Intermediate school district plans, or modification thereof, shall be approved by the state board of education after the determination of any objections pursuant to R 340.1836, if such plans are in compliance with all of the following:

(a) The state plan for the delivery of special education programs and services.

(b) The provisions of sections 1701 to 1766 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1701 to 380.1766 of the Michigan Compiled Laws.

(c) Michigan rules promulgated to implement statutory provisions for special education programs and services.

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(d) Federal rules promulgated to implement statutory provisions for handicapped persons.

(2) Intermediate boards of education, constituent local school boards, and the parent advisory committee shall be advised by the state board of education or its designee as to whether the plan was approved on or before February 1 of the year in which the plan is to commence. Notification of disapproval of a plan, or modification thereof, shall state the reasons therefore and shall specify the action to be taken by the intermediate board of education, if any, and the date the plan is to be resubmitted.

R 340.1838 Parent advisory committee.

Rule 138.(1) A parent advisory committee shall be appointed by each intermediate school district board.

(a) The committee and its officers shall consist only of parents of handicapped persons with at least 1 parent from each constituent local school district.

(b) Each constituent local board of education shall nominate at least 1 parent.

(c) The intermediate school district board of education may nominate additional members not to exceed 33 1/3% of the total parent advisory committee membership.

(2) The intermediate board of education shall make every attempt to assure that all types of impairments and all identifiable organization of parents of handicapped persons within the intermediate school district are represented on the committee.

(3) The intermediate board of education may recommend operational procedures for committee review and adoption.

(4) The intermediate school district shall secure or allocate fiscal and staff resources to the committee to make it efficient and effective in operation.

(5) The parent advisory committee shall have responsibility for determining the organizational structure of the committee, including all of the following:

(a) Officers and their responsibilities.

(b) Meeting times.

(c) Notice of meeting times.

(d) Voting procedures.

(e) Terms of office.

(f) Related matters.

(6) The parent advisory committee shall participate in the development of the district's plan for the delivery of special education programs and services as required by R 340.1833.

(7) The parent advisory committee may provide advisory input on any matters which the committee deems appropriate to the improvement of special education services within the intermediate school district.

R 340.1839 Monitoring and program evaluation.

Rule 139.(1) The department shall establish, with approval of the state board of education, monitoring procedures, criteria, and evaluation activities to insure that minimum standards are being achieved by all public agencies.

(2) Each intermediate school district shall implement monitoring procedures and evaluation methods developed by the department to insure that the standards and criteria established are being achieved by the intermediate school district and their constituent districts.

PART 8.
COMPLAINTS

R 340.1851 Intermediate school district's responsibility for investigation of complaints; report.

Rule 151.(1) An intermediate school district, upon receipt of a complaint, shall investigate the complaint pursuant to these rules and the procedures approved by the state board of education. The investigation shall include direct communication with the complainant or the complainant's authorized representative. The complainant shall be informed of the specific procedures for conducting the investigation, filing reports, and appealing the conclusions contained in the investigation report. The investigation shall be completed and a report shall be filed by the intermediate school district within 21 calendar days after the date of receipt of the complaint. The report shall be filed with the complainant, local educational agency, if applicable, and the department. The report shall contain information as specified in procedures approved by the state board of education and shall contain notification of the complainant's right to appeal the conclusions of the investigation and to have the department review the intermediate school district's decision on the complaint.

(2) The intermediate school district may contract with an independent agent to conduct the investigation or shall appoint a person who is a member of the special education staff to be responsible for investigating complaints under part 8 of these rules. The person shall not have administrative authority over programs or services against which a complaint may be filed. Copies of part 8 of these rules and applicable procedures shall be made available by the intermediate school district for distribution to its employees, the employees of constituent local educational agencies, the public, and other agencies operating special education programs and services.

(3) An intermediate school district receiving a complaint under its jurisdiction shall, during the pendency of any proceeding stipulated in this rule, require any agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in its judgment, not doing so may constitute a violation of the student's due process protection or if so directed by the department.

R 340.1852 Department responsibilities for processing complaints and conducting state investigations.

Rule 152.(1) The department may, for good cause, investigate a signed written complaint pursuant to the procedures approved by the state board of education, regardless of the status of the investigation under R 340.1851.

(2) Upon receipt of a complainant's appeal for review of the intermediate school district decision on the complaint, the department, pursuant to the procedures approved by the state board of education, shall do all of the following:

(a) Carry out an independent on-site investigation if the department determines that an investigation is necessary.

(b) Give the complainant the opportunity to submit additional information, either orally or in writing, about the allegations in the complaint.

(c) Review all relevant information and make an independent determination as to whether the public educational agency is violating any of the provisions of law specified in the definition of "complaint" in R 340.1701(g).

(3) The department shall issue a written report to the complainant and to the educational agency against which the complaint was filed that addresses each allegation in the complaint and contains all of the following information:

(a) Findings of fact and conclusions.

(b) The reasons for the department's final decision.

(c) Procedures for effective implementation of the department's final decision, if needed, including technical assistance activities, negotiations, and corrective actions to achieve compliance.

(4) The intermediate school district is responsible for assisting the agency in violation, for monitoring progress of the corrective action, and for informing the department when the corrections have been completed.

(5) Proof of compliance shall be submitted by the educational agency that was in violation within the time line specified in the directive for correction.

(6) Upon failure of an educational agency to correct known violations of law, upon failure of the educational agency in violation to cooperate with the department or the intermediate school district during the conduct of its investigation, or upon known falsification of fact or continued repetition of similar violations, the state board of education shall do 1 or more of the following:

(a) If the educational agency in violation is a local school district, the state board of education shall direct the intermediate school board to provide complying programs and services as stipulated in section 1702 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1702 of the Michigan Compiled Laws.

(b) If the agency in violation is an intermediate school board, the state board of education may withdraw the authority of the intermediate district to operate a program in noncompliance and simultaneously require the local district of residence to place the affected student or students in an appropriate program.

(c) Withhold federal funds pursuant to the provisions of section 1414(b)(2)(a) of the individuals with disabilities education act of 1990, 20 U.S.C. §1414(b)(2)(a).

(d) Apply other penalties, as stipulated in Act No. 451 of the Public Acts of 1976, as amended, being §380.1 et seq. of the Michigan Compiled Laws.

(e) Withhold state funds pursuant to the provisions of Act No. 94 of the Public Acts of 1979, as amended, being §388.1601 et seq. of the Michigan Compiled Laws, or any other governing statute.

(f) Withhold, withdraw, or suspend such endorsements, approvals, credentials, grants, or authorizations pertaining to special education personnel or projects that the state board of education or its designee had authority to grant as authorized by, and in accordance with, the procedures required by law.

(7) The state board of education or its designee, during the pendency of any proceeding under part 8 of these rules, shall require any educational agency against which the complaint was lodged to maintain the educational status, program placement, or service of an involved student as it was before the complaint if, in the judgment of the state board of education or its designee, not doing so constitutes a violation of the student's due process protections.

(8) The department shall notify the complainant and the public agency of the right to request the United States secretary of education to review the department's final decision.

R 340.1853 General responsibilities of all agencies for processing complaints and investigations.

Rule 153. (1) The term "complaint" is defined in R 340.1701(g). All public educational agencies shall receive allegations of violations of state or federal regulations pertaining to special education. If the allegation is made orally, the recipient agency may take formal or informal action as necessary to resolve the situation in compliance with applicable provisions of law, but, at a minimum, shall immediately do all of the following:

(a) Inform the person making the allegation that he or she has a right to file a written formal complaint with the appropriate intermediate school district or with the department and to have that complaint investigated in accord with part 8 of these rules and procedures approved by the state board of education.

(b) Inform the person making the allegation that if he or she wishes to delay filing a formal complaint so that an informal resolution may be attempted, he or she retains the right to file a formal complaint if the informal attempts to resolve the concern in a timely manner are unsuccessful.

(c) Provide the person making the allegation with a copy of part 8 of these rules and the state board of education's procedures pertaining to complaints and offer to assist the person to file the complaint.

(2) A person claiming to be acting on behalf of a complainant may be required to provide evidence of that authority.

(3) Complaints are initially investigated by the intermediate school district. At its discretion, the department, for good cause shown, may initiate a complaint or may conduct the initial investigation of the complaint instead of requiring the intermediate school district to investigate the complaint initially.

(4) A time limit of 60 calendar days after a complaint is filed is allotted for the intermediate school district to complete the investigation responsibilities under R 340.1851 and for the department to complete its review as specified in R 340.1852.

(5) An extension of time specified in part 8 of these rules may be granted by the department for good cause shown. A denial of an extension request is final.

R 340.1854 Availability of rules relative to complaints.

Rule 154. RESCINDED.

PART 9.
RECORDS AND CONFIDENTIALITY

R 340.1861 Records; maintenance; content; transfer of records; release of records.

Rule 161.(1) A registry shall be maintained by intermediate school districts pursuant to the provisions of section 1711 of Act No. 451 of the Public Acts of 1976, as amended, being §380.1711 of the Michigan Compiled Laws, for all handicapped persons up to 25 years of age, as defined by R 340.1703 to R 340.1715, including those persons placed in state and privately operated facilities. The registry shall be an operational, active data base system with the capacity to provide up-to-date pupil counts and other data requirements to the department on a timely basis. Each local school district or state agency shall provide the intermediate school district with a complete updated data record for each handicapped student. This updated record shall contain full-time equivalency data for each student enrolled in a special education program by the unduplicated child count date and shall contain each student's data enrolled in programs and services by the duplicated child count date.

(2) Each record for the handicapped person shall include, at a minimum, all of the following:

(a) The name, date of birth, sex, and racial or ethnic group.

(b) Type of eligibility.

(c) Transportation required.

(d) Programs and services being rendered.

(e) Full-time equivalency in special education.

(f) Reason for leaving special education and anticipated service needs.

(g) District of residence.

(h) Program service code.

Each record may include other data needed by the district.

(3) When the residency of a handicapped person changes from one intermediate school district to another, the intermediate school district of previous residence shall transfer the records maintained under this rule to the new intermediate school district upon written request of the intermediate school district of residency and the parent of the handicapped person for whom the record was maintained.

(4) An intermediate school district shall request written consent of the parent of each handicapped person, presently or hereinafter on its records, before providing any agency or entity approved by the state board of education with information on record with the district under subrule (2) of this rule. If consent is not obtained, the district shall release the requested information to the agency or entity approved by the state board of education, except for the name of the handicapped person and the name, address, and telephone number of the parent.

R 340.1862 Access rights.

Rule 162.(1) Each participating agency shall permit parents to inspect and review any education records relating to their children which are collected, maintained, or used by the agency under this part. The agency shall comply with a request without unnecessary delay and within 45 calendar days after the request is made. Parents requesting records for use at an individualized educational planning committee meeting, a hearing, or an appeal shall be given access to their requested records immediately.

(2) The right to inspect and review education records under this rule includes all of the following:

(a) The right to a response from the participating agency to reasonable requests for explanations and

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interpretations of the records.

(b) The right to request that the agency provide copies of the records containing the information if failure to provide those copies would effectively prevent the parent from exercising the right to inspect and review the records.

(c) The right to have a representative of the parent inspect and review the records.

R 340.1863 Record of access.

Rule 163. Each participating agency shall keep a record of parties obtaining access to education records collected, maintained, or used under this part, except for access obtained by parents and authorized employees of the participating agency. Records of access shall include the name of the party, the date access is given, and the purpose for which the party is authorized to use the records.

R 340.1864 Records on more than 1 person.

Rule 164. If any education record includes information on more than 1 person, the parent of each person shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.

R 340.1865 List of types and locations of education records.

Rule 165. Each participating agency shall provide parents, upon request, with a list of the types and locations of education records collected, maintained, and used by the agency.

R 340.1866 Fees.

Rule 166.(1) A participating education agency may charge a fee for copies of records made for the parents under this part if the fee does not effectively prevent the parents from exercising their right to inspect and review those records.

(2) A participating agency shall not charge a fee to search for or retrieve information under this part.

R 340.1867 Amendment of records at parent's request.

Rule 167.(1) A parent who believes that information in education records collected,maintained, or used under this part is inaccurate or misleading or violates the privacy or other rights of the handicapped or suspected handicapped person may request the participating agency that maintains the information to amend the information.

(2) The agency shall decide whether to amend the information pursuant to the request within a reasonable period of time from receipt of the request.

(3) If the agency decides to refuse to amend the information pursuant to the request, it shall inform the parent of the refusal and advise the parent of the right to a hearing under R 340.1868.

R 340.1868 Opportunity for a hearing to challenge record information.

Rule 168. The agency shall, on request, provide an opportunity for a hearing to challenge information in

education records to insure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the students.

R 340.1869 Hearing Procedures.

Rule 169. The hearing required to be held by R 340.1868 shall, at a minimum, be conducted according to the following procedures:

(a) The hearing shall be held within a reasonable period of time after the educational agency or institution has received the request, and the parent of the person or the eligible person shall be given notice of the date, place, and time reasonably in advance of the hearing.

(b) The hearing may be conducted by any party, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing.

(c) The parent of the person or the eligible person shall be afforded a full and fair opportunity to present evidence relevant to the issues raised under R 340.1868 and may be assisted or represented by individuals of his or her choice at his or her own expense, including an attorney.

(d) The educational agency or institution shall make its decision in writing within a reasonable period of time after the conclusion of the hearing.

(e) The decision of the agency or institution shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

R 340.1870 Hearing resulting in finding of violation; finding of no violation.

Rule 170.(1) If, as a result of the hearing, the agency decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, the agency shall amend the information accordingly and shall inform the parent in writing of the amendment.

(2) If, as a result of the hearing, the agency decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the person, it shall inform the parent of the right to place a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the agency in the records the agency maintains on the person.

(3) Any explanation placed in the records of the person under this rule shall be maintained by the agency as part of the records of the person as long as the record or contested portion is maintained by the agency. If the records of the person or the contested portion is disclosed by the agency to any party, the explanation shall also be disclosed to the party.

R 340.1871 Parental consent for disclosure of personally identifiable information.

Rule 171.(1) Parental consent shall be obtained before personally identifiable information is disclosed to anyone other than officials of participating agencies collecting or using the information under this part or before being used for any other purpose other than meeting a requirement of this part.

(2) Parental consent shall not be required for disclosure of personally identifiable information from the education records of a student if the disclosure meets the requirements of 45 C.F.R. §99.31.

R 340.1872 Confidentiality safeguards.

Rule 172.(1) Each participating agency shall protect the confidentiality of personally identifiable information at collection, storage, disclosure, and destruction stages.

(2) One official at each participating agency shall assume responsibility for ensuring the confidentiality of any personally identifiable information, including data stored in computers.

(3) All persons collecting or using personally identifiable information or using computer terminals or microcomputers shall receive training or instruction regarding the procedures required in safeguarding confidential material.

(4) Each participating agency shall maintain, for public inspection, a current listing of the names and positions of those employees within the agency who may have access to personally identifiable information.

R 340.1873 Destruction of information.

Rule 173.(1) The public agency shall inform parents when personally identifiable information collected, maintained, or used under this part is no longer needed to provide educational services to the student.

(2) The information shall be destroyed at the request of the parents. However, a permanent student record of all of the following shall be maintained without time limitation:

(a) Name, address, and phone number.

(b) Grades.

(c) Attendance record.

(d) Classes attended.

(e) Grade level.

(f) Year of class completion.

Michigan State Board of Education
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